

**Options for improved  
support for victims and other  
witnesses attending magistrates'  
courts**

Report for

The Home Office

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***Joyce Plotnikoff and Richard Woolfson***  
*Consultants in Management, IT and the Law*  
*Cheldene*  
*Church Lane*  
*Preston*  
*Hitchin*  
*Herts SG4 7TP*  
*Tel: 01462 457555*  
*Fax: 01462 457229*  
*E-mail: woolfsonR@aol.com*

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## **SUMMARY**

### **Introduction**

This report describes the work and findings of a research consultancy to clarify options for improved support for victims and other witnesses attending magistrates' courts and the youth court.

The study took place between October 1996 and March 1997. It was conducted on behalf of an inter-agency Steering Group, chaired by the Home Office, consisting of representatives of the Home Office Procedures and Victims Unit and Research and Statistics Directorate, the Justices' Clerks' Society, Crown Prosecution Service, Lord Chancellor's Department, Victim Support and the Magistrates' Association.

### **Methodology**

Fieldwork took place in five courts. Interviews were conducted with 275 court users and with 51 observers (court staff, prosecution and defence lawyers, police officers, probation officers, social workers and representatives of support organisations). Other sources of information included 36 executive interviews, 14 telephone interviews with Victim Support schemes, a meeting in December 1996 with 15 Victim Support scheme coordinators and 10 telephone interviews with Crown Court managers.

### **Main findings**

- Only 54 per cent of witnesses attending court actually gave evidence (25 per cent in the youth court)
- neither prosecution nor defence witnesses were well-informed about how long they would have to wait
- the desire for more information and explanations was common to prosecution and defence witnesses and (according to NACRO help desks) also to defendants
- the improvements witnesses suggested most frequently were for fewer adjournments or ineffective court visits and reduced waiting time at court
- 35 per cent of prosecution witnesses and 24 per cent of defence witnesses expressed anxiety about waiting arrangements
- only a small proportion of witnesses expressed a wish for emotional support
- one-quarter of the court 'observers' interviewed (court staff, prosecutors, police and the like) were unaware of provisions for vulnerable witnesses at their court
- there was little awareness of the use of screens, CCTV and videotaped evidence-in-chief in the youth court
- arrangements for the funding of witness support by external organisations varied widely but were usually short term and ad hoc.

## Proposals

The study was asked to consider what else could be done to improve service by magistrates' courts and other criminal justice agencies. Four components of a 'seamless service' for witnesses were identified:

- effective management of the criminal justice process
- availability of the appropriate physical environment at court
- the provision of information during the pre-trial period, at court and thereafter
- the need for sensitive personal treatment.

Implementation of the Statement of National Standards on Witness Care would go a long way towards meeting the concerns of witnesses in the court survey. However, although the policy commitments were clear, the methods for delivering the specified quality of service were not always in place. It was hard to see how services could be significantly improved without revisiting the mechanisms for delivery, performance measures and the resources required. There was a need for central coordination, monitoring and consideration of priorities at a national level, to allow service provision to be put on a more strategic footing by matching resources to need.

The study indicated that responsibilities shared among agencies can result in blurred accountability for service delivery. There needs to be a clearer understanding of the responsibilities of criminal justice system agencies with respect to witness care, particularly if certain functions are delegated to external organisations. No government department has a lead role in relation to witness policy. It is logical that the LCD should assume this position and coordinate discussions between criminal justice system agencies on the funding of witness care.

A range of key services are listed in the National Standards, including pre-trial familiarisation visits, points of contact for responding to witness queries, liaison concerning vulnerable witnesses and the provision of a reception desk. It is proposed that such core witness service tasks be grouped together under one umbrella in order to simplify witnesses' interface with the system. A policy decision is required as to whether witness services should be available to other court users. Such a service could be staffed by the court or contracted out to an external organisation.

It was difficult to calculate the cost of the generic service. Current court expenditure on witness care was not ring-fenced and the diverse funding arrangements of existing schemes did not always reflect actual cost. Starting from a zero base, a service staffed by the court would cost around £11 million in salaries alone. The actual cost is likely to be much less as many elements of the service are already being delivered. Some of the costs could be met by achieving efficiencies elsewhere in the system. A service provided by an external organisation would cost less: Victim Support provided estimates covering all magistrates' courts for between £3.7 million and £6.1 million. The report advocates that a pilot study be conducted in one or more areas covered by Local Service Level Agreements in order to test the validity of the generic witness service model and of the costs and savings involved.

A table is attached summarising the report's recommendations.

| Recommendation  | Current position   | Cost issues   |
|---|--|---|
| Introduce new performance measures to monitor the quality of services provided to witnesses                                   | Existing performance measures are imprecise  | Minimal cost  |
| Use some funds from efficiency savings to fulfil commitments to witnesses in National Standards                               | Practice does not accord uniformly with the National Standards, for which implementation has not been fully costed             | Home Office estimates suggest that large savings can be made through improvements in efficiency   |
| Provide separate waiting facilities for prosecution and defence witnesses   | 16% of courts do not have a separate waiting room, even for use on an emergency basis  | Estimated cost of providing facilities in the 16% of courts without them is £2.4 million. Accurate estimates require a detailed survey of court buildings |
| Personnel should be available to ensure that witnesses are directed to the appropriate area                                   | Some waiting areas are unused because of lack of such staff  | See discussion on generic witness service below   |
| Review security outside as well as inside the court building  | Court security staff may not address witness intimidation outside  | Dependent on individual circumstances. The cost of cameras outside the court may be covered as part of city centre CCTV installations                     |
| Train personnel in the CJS, including magistrates, on the need for 'sensitive personal treatment' when dealing with witnesses | No national strategy of training programmes although the stress of being a witness can be greatly alleviated by such treatment | Can be incorporated in existing programmes for minimal cost   |
| Formalise procedures and facilities for vulnerable witnesses in writing   | Awareness of such procedures is poor   | Minimal cost  |
| Produce national guidance on use of videotaped evidence and CCTV links for young witnesses in the youth court                 | These facilities are little used at present  | Minimal cost  |

## Recommendation

Further encourage courts to designate a member of staff as child witness officer

Review procedures for referral of victim and vulnerable witnesses to appropriate support organisations

Courts to conduct regular surveys of effectiveness of distribution of written pre-trial information to prosecution and defence witnesses

LCD to establish a central information point about use of technology (e.g. bulletin boards and videos) as methods of providing information to court users

A generic witness service to be provided in all magistrates' courts to act as a focal point for witnesses' queries and requests for help

Investigate the feasibility of making the described services available to all court users

## Current position

LCD is unaware whether any courts have adopted its proposal

Some victims and vulnerable witnesses fall through the net

Study fieldwork reveals that current distribution arrangements are not working well

No mechanisms exist for disseminating the experience gained from initiatives of individual courts; some development costs may be duplicated

Current provision is uneven and responsibility for provision is blurred.

The needs of a wide range of court users are similar. There is a danger of duplication of services to

## Cost issues

At the Crown Court, such appointments are considered 'resource neutral'

Little additional cost

Minimal cost

Minimal cost

Hard to calculate. From a zero base, costs using court staff may be around £11 million. In fact, elements of the service are already in place. Building on these components would reduce the figure dramatically. Improved efficiency resulting in fewer adjournments would free up staff time and save costs which could be redeployed to provide this service. Use of volunteers would also reduce costs

Little additional cost

### **Recommendation**

Ownership of witness care at a national level should be assigned to LCD which should administer the associated budget

### **Current position**

different groups

Responsibilities to witnesses lie across agencies leading to ill-defined boundaries and ad hoc, short term funding arrangements

### **Cost issues**

Budget contributions should come from all agencies with witness responsibilities. TIG should address these arrangements



# **1 INTRODUCTION**

## **1.1 The report**

This report has been produced by Joyce Plotnikoff and Richard Woolfson for the Home Office on behalf of an inter-agency Steering Group. The Group, which was chaired by the Home Office, consisted of representatives of the Home Office Procedures and Victims Unit and Research and Statistics Directorate, the Justices' Clerks Society, Crown Prosecution Service, Lord Chancellor's Department, Victim Support and the Magistrates' Association.

The report describes the work and findings of a research consultancy to clarify options for improved support for victims and other witnesses attending magistrates' courts and the youth court.

## **1.2 Research consultancy aims**

The purpose of the study was to consider the range of options for providing a better service for victims, witnesses and other members of the public. More specifically, the aims were:

- to interview witnesses attending magistrates' courts and the youth court in order to record their experiences of being a witness and their views on the kind of support they require
- to establish how the nature of the support might differ according to the type and size of the court
- to document existing policies and practice relating to the support of witnesses in magistrates' courts and the youth court
- by drawing on the experience of the Crown Court Witness Service (CCWS) and existing witness support in magistrates' courts, to investigate how provision of enhanced support can best be resourced, funded and managed
- to present costed options for enhanced support that take account of differing local need while allowing for compliance with the national standards for witness care agreed by the Trials Issues Group (TIG).

## **1.3 Background**

There are around 400 petty sessional divisions in England and Wales run by 105 Magistrates' Courts Committees (MCCs). Magistrates' courts are the starting point for all criminal prosecutions and over 95 per cent of criminal cases end there. Around two million defendants are prosecuted annually in magistrates' courts, nearly half of whom are charged with summary motoring offences.

This study took place at a time when nationally, the Magistrates' Courts Service had recently undergone an appraisal of its structure, organisation and relationships. This examined the impact of the changes introduced by the Police and Magistrates' Courts Act 1994 under which some MCC areas merged with others and Justices' Chief Executives

were appointed as the single head of service in each MCC area. A new formula was applied to MCC grant allocation for the year 1995/6. Like other public sector organisations, courts were under challenge to produce a higher quality service while resources were constrained.

This was also a period during which services to victims and witnesses were given increasing prominence. The revised Victim's Charter and Statement of National Standards of Witness Care in the Criminal Justice System were both published in 1996. This was also the first full year of a national Crown Court Witness Service, and a Structural Review was announced addressing, *inter alia*, the relationship between the Service and its parent body Victim Support. Local initiatives to improve support services to witnesses in magistrates' courts expanded in number. Courts also explored the use of videos and electronic bulletin boards in their waiting areas to provide information to defendants and witnesses. The Home Office announced pilot tests of 'one-stop-shops' and victims' statements, two aspects of Victim's Charter standards. The organisation JUSTICE convened its Committee on the Role of the Victim in Criminal Justice and conducted a survey of services and facilities provided by magistrates' courts and Crown Court centres.

#### **1.4 Acknowledgements**

Completion of the study within the limited time available was only possible because of the assistance provided by a large number of people. Firstly, the members of the Steering Group were instrumental in securing the cooperation of their respective organisations and in providing a wealth of relevant material. In particular, Victim Support National Office helped in the provision of data, setting up contacts and convening a meeting with coordinators on our behalf. Individual Victim Support and Witness Service coordinators gave freely of their time and expertise. Personnel managing the NACRO help desks and independent witness support schemes aimed at tackling witness intimidation told us about their programmes. Professor Joanna Shapland kindly gave us access to unpublished data from the national court survey conducted on behalf of JUSTICE.

Field work was conducted at five magistrates' courts which must remain anonymous but we are very grateful for their help. The interviewers, all experienced *guardians ad litem*, were Una Plotnikoff, Dale Woods, Mike Campling, Bill Wardle and Graham Moore. Their interviewing skills were important in achieving responses from witnesses and other court users in the tense atmosphere of the court.

Finally, our thanks are due to the 36 executive interviewees, 51 court observers (court staff, police, lawyers, probation officers and social workers) and the 275 court users who agreed to be interviewed. Their views and experiences form the basis of this report.

## 2 METHODOLOGY

### 2.1 Introduction

This chapter describes the work undertaken to carry out the Home Office research specification which identified the following key tasks:

- interviews with at least 200 members of the public, drawn from those attending criminal cases at three or four magistrates' courts and with a further 70 youth court witnesses
- interviews with key figures in government departments, those involved with the running of magistrates' courts, Victim Support and other voluntary organisations with an interest in this area
- as a subsidiary aspect, an assessment of the perceived effectiveness of the Crown Court Witness Service.

### 2.2 Fieldwork interviews

Fieldwork was conducted in five courts. Four were selected after consultation with the Steering Group from a shortlist of courts expected to generate sufficient interviews in the time required. They provided a geographical spread, varied in size and included two with a court-based witness service and one with a NACRO help desk.

A fifth court was added later in consultation with the Home Office in order to augment the number of interviewees. This court, which had no court-based witness service, was selected for the volume of its throughput.

In each of the five locations, both the magistrates' court and youth court were surveyed. A total of 275 interviews were conducted: 194 in the magistrates' court (against the target of 200) and 81 in the youth court (compared with the target of 75).

The fieldwork interviews were conducted by *guardians ad litem* and by the researchers. The interviewers wore identification badges. Initially, attempts were made to ensure privacy during the interview by using a room set aside by court staff but this proved awkward as many interviewees did not want to leave the location where they were waiting. However, it was possible to conduct interviews out of earshot of others.

The researchers had considerable difficulty at all fieldwork courts in predicting the numbers of witnesses attending (mirroring the experience of those providing a witness service in magistrates' courts). Courts can identify when trials are listed, but usually not whether prosecution witnesses attending are civilian or police. Unless the issue has been dealt with at a pre-trial review, the court listing officer does not know whether defence witnesses will attend. CPS files contain information about the numbers of prosecution witnesses and whether or not they are civilian but a labour-intensive trawl is required to collate this information for all trials listed on a given day.

One or two days in advance, court listing officers provided the researchers with the latest information about the number of trials on a particular day and CPS personnel often gave an indication of the number of civilian witnesses attending (the witness service coordinators at two courts also assisted). However, advance information proved to be a poor predictor of the situation ‘on the day’; it was not unusual to find that most of the trials listed did not proceed for one reason or another and on several occasions the researchers attended court to find no trial activity at all. Where trials had been removed from the list at short notice, it was very difficult to identify whether witnesses had been told not to come the night before or whether they had been sent away on arrival at the court building. On a number of occasions, the researchers were told they had ‘just missed’ witnesses who had been dismissed on arrival at court. It is therefore likely that the number of witnesses who attended court but failed to give evidence is under-represented in our sample.

Candidates for interview were identified in a number of ways. Some were pointed out by ushers or prosecutors. The researchers approached directly prosecution witnesses found in reserved waiting areas. Canvassing persons waiting in other public areas of the court building proved the most effective method for identifying defence witnesses. The same procedures were followed at the youth court.

It was difficult to find non-witnesses who attended court in connection with a specific case. Only one victim non-witness was identified. Apparently few in number, this category also seemed less likely to come to the attention of court personnel who were aware only of the attendance of witnesses and defendants.

Very few of those approached declined to participate, with the exception of one court where slightly over one-quarter refused. Interviewers felt that most refusals were due to a heightened level of anxiety or agitation about giving evidence.

The age range, gender, ethnic origin and status of the interviewee were noted using the categories and technique employed by the CCWS.<sup>1</sup> ‘Status’ distinguished victims, other prosecution witnesses, defence witnesses and those who accompany witnesses. The questionnaire, which focused on interviewees’ information and support needs, combined ‘tick-the-box’ and open-ended questions. The questionnaire was pilot tested at the first fieldwork court and some revisions were made.

In response to CPS concerns, it was agreed to limit the scope of the questionnaire. Care was taken to avoid discussion with witnesses of matters that could generate unused material which would be subject to common law rules of prosecution disclosure. The CPS pointed out that research is not protected by the law of public interest immunity or by any legal privilege against disclosure. Although in strict legal terms the researchers would have no automatic duty to give information to the prosecution, because of the researchers’ official access and prosecution awareness of the survey, the CPS concluded that complete confidentiality could not be promised to interviewees.

The interviewers therefore prefaced all explanations about the survey with the proviso that neither the case nor the evidence could be discussed. Interviewers were advised to stop

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<sup>1</sup> The witness is invited to select an age band and ethnic origin on a ‘tick-the-box’ form provided for his or her completion.

interviewees immediately if they tried to embark on such a discussion. No questions were asked about the alleged offence or even about the reasons why the interviewee had attended court on a previous occasion. At the close of the pre-trial interview, witnesses were asked if the interviewers could speak to them again after giving evidence. Most of these brief follow-up interviews were conducted by telephone. Interviewees were again advised that the case and the evidence could not be discussed. In the event, no difficulties were encountered.

Brief interviews were also conducted with a range of professional personnel present at the magistrates' court or youth court on a regular basis including court clerks, ushers, prosecutors, defence lawyers, probation officers, police and social workers. A total of 51 such 'observer' interviews were conducted.

The research specification raised the possibility of including some witnesses with sequential experience in the magistrates' court and the Crown Court. The experience of such witnesses in the magistrates' court would relate to an 'old style' committal, a procedure that is currently being phased out. The project Steering Group concluded that such witnesses would be difficult to identify. The CCWS does not record whether a witness at the Crown Court has previously given evidence at the magistrates' court and the CPS was unable to provide the necessary information which would have allowed this aspect of the study to proceed.

### **2.3 Other interviews**

A total of 36 semi-structured interviews were held with a senior member of staff at each fieldwork court and representatives of:

- Home Office
- Lord Chancellor's Department (LCD)
- CPS
- Court Service
- Justices' Clerks' Society
- Central Council of Magistrates' Courts Committees (MCCs)
- Magistrates' Association
- HM Magistrates' Courts Service Inspectorate
- Association of Chief Police Officers
- Probation Service
- Criminal Justice Consultative Council
- Trials Issues Group (TIG)<sup>2</sup>
- Association of Directors of Social Services
- Victim Support and the Crown Court Witness Service (CCWS)
- National Association for the Care and Resettlement of Offenders (NACRO)
- The Law Society.

Twenty-two interviews were in person and the remainder were conducted by telephone. Interviewees were provided with a list of issues in advance. Comments were also received

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<sup>2</sup> Formerly the Pre-Trial Issues Steering Group. TIG's terms of reference include consideration of specific criminal justice system matters involving relations between the police, prosecution, courts and others.

from the Association of Directors of Social Services and the Criminal Law Solicitors Association.

On our behalf, Victim Support National Office convened a meeting in December 1996 of 15 Victim Support coordinators and other representatives of local schemes. An informative discussion took place about the organisation and funding of support services in magistrates' courts.

In addition, telephone surveys were conducted of 14 Victim Support schemes. Telephone interviews were held with ten Crown Court managers in relation to the Witness Service and with the coordinators of two witness support schemes that have a special brief to tackle witness intimidation. Information was also obtained from a small number of magistrates' courts which had explored the use of videos and electronic bulletin boards to improve information provision to court users.

## **2.4 Data analysis and report writing**

Responses to court survey questionnaires were input to computer and analysed using the statistical package 'SPSS for Windows'. Information provided in other interviews was analysed manually by issue.

### **3 POLICY AND PROCEDURES**

#### **3.1 Introduction**

This chapter:

- documents existing policies and procedures relating to the support of witnesses in magistrates' courts and the youth court
- presents the perspectives of executive interviewees on policy matters.

#### **3.2 Policy documentation**

##### *The Victim's Charter*

The 1990 Home Office Victim's Charter was an important initiative but was criticised as being aimed primarily at service providers. The revised and extended Charter published in 1996 was addressed more directly to victims' needs. It set out 27 standards of service that victims of crime can expect from criminal justice system agencies. Compliance with the standards will be monitored by the Victims Steering Group, a standing Home Office working group, and progress will be reported in the Home Office Annual Report. Two key standards are the subject of pilot projects: keeping victims informed of progress in their cases (known as 'the one-stop shop') and taking victims' interests into account (known as 'victim statements').

Many of the Charter standards relate to court attendance, including two general commitments:

- to bring cases to court as quickly as possible on a date convenient to the witness (p. 9)
- to treat witnesses with respect and sensitivity (p. 4).

Some standards pertain to the court:

- witnesses can ask to have a friend or supporter in the court (p. 11)
- if space permits, witnesses can reserve a seat in court for an accompanying relative or friend and can ask to wait separately from those involved in the case: 'Court staff will make suitable arrangements wherever possible' (p. 4)
- the court will consider making a compensation order if the victim has suffered loss, damage or injury and give reasons if they decide not to make an order (p. 9)
- the inside of the court building will be clearly signposted (p. 9)
- witnesses can ask to see a courtroom before the case starts<sup>3</sup> (p. 4).

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<sup>3</sup> Concerning familiarisation visits or other special arrangements, witnesses are advised that: 'in the magistrates' court, you should tell the police, who will put you in touch with the court' (pp. 4, 9).

Two standards relate specifically to the CPS:

- ‘wherever possible’ CPS representatives will introduce themselves to witnesses to tell them what to expect (p. 4)
- a CPS representative will tell the witness the courtroom in which the evidence will be heard (p. 9).

Some commitments are shared by more than one organisation:

- the magistrates may agree that the witness’ name and address should not be read out in court and may also allow the witness to give evidence behind a screen. Witnesses wanting these arrangements to be considered should tell the police or CPS (p. 10)
- if delays occur, court staff or a CPS representative will give witnesses the reason and explain how long the delay is likely to be (p. 4).

### *Statement of National Standards of Witness Care in the Criminal Justice System*

This document was issued by TIG in 1996, taking forward a recommendation of the 1995 Efficiency Scrutiny<sup>4</sup> commissioned by the Prime Minister as part of a wider drive to cut waste in the public sector. The Efficiency Scrutiny set out to identify areas where change could lead to greater efficiency and a better service to the public. It emphasised the need for improved services to witnesses.

The TIG Statement set national parameters for standards of service for witnesses in criminal cases and provided a framework for local service level agreements (LSLAs) incorporating these standards. The LSLAs, produced by 42 local inter-agency TIG groups based on police force areas, were due to be submitted to TIG between March and May 1997. As each police service area covered several MCCs, the LSLAs were not expected to incorporate individual MCC or magistrates’ court initiatives. Starting in the autumn of 1997, TIG will be asking the local groups to produce twice yearly progress reports on specific issues. These reports will allow TIG to identify, develop and disseminate good practice to the local groups. TIG will also supply each of the 23 Area Criminal Justice Liaison Committees with regular reports on how implementation is progressing.

The underlying principles of the National Standards are set out in section 1(i):

- witnesses will give evidence only if essential to the interests of justice
- every effort will be made to arrange trial dates that are convenient to witnesses, victims, defendants, and others involved in the proceedings
- witness waiting time at court will be kept to the minimum
- witnesses will be given as much notice as possible of the date and time they are required to attend court
- provision will be made for the special needs of witnesses, for ‘standby arrangements’<sup>5</sup> and for ‘pre-trial court familiarisation’ visits

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<sup>4</sup> Administrative Burdens on the Police in the Context of the Criminal Justice System. Home Office, Lord Chancellor’s Department, Crown Prosecution Service and the Police Service.

<sup>5</sup> Allowing witnesses to wait near the court provided they can be contacted by telephone.

- cases involving child witnesses and those at risk of being intimidated will be given priority in preparation and listing
- special arrangements will be made for witnesses at risk of being intimidated
- all witnesses will be dealt with sensitively, with regard being given to the differences in language, expression, religion and customs of those from ethnic minority groups
- witnesses will be given timely information about the progress of cases and their enquiries will be dealt with promptly and helpfully
- witnesses will be given information, on request, about the outcome of cases
- witnesses' expenses claims will be dealt with promptly.

Responsibilities of the defence solicitor and the police identified by the National Standards include:

- to ensure that witnesses receive the leaflet 'Witness in Court' (para. 2.3)
- to respond to queries (para. 2.3)
- to encourage witnesses to inform them immediately of any change in their availability for court (para. 2.3)
- to provide their witnesses with as much notice as possible of the trial date and the time they are to attend court, in any event within four working days of receipt of the relevant information (receipt of the LWAC<sup>6</sup> for the police, or of the trial date for the defence solicitor) (para. 8.2).

The Standards also state that the police should seek approval from the CPS for pre-trial court familiarisation visits for vulnerable witnesses and liaise with the court and Victim Support/Witness Service in making arrangements for the visits (para. 11.1).

The National Standards highlight specific court responsibilities:

- to nominate someone to respond to defence and prosecution witness queries and to facilitate pre-trial court familiarisation visits (para. 11.3)
- to nominate someone, identified in the LSLA, to liaise with the police concerning arrangements that the police intend to take to protect witnesses at risk of being intimidated at court<sup>7</sup> (para. 12.1)
- where possible, to have separate waiting areas for defence and prosecution witnesses<sup>8</sup> (para. 16.1)
- to agree a contingency plan with the police for dealing with disorder or intimidation within the court precincts<sup>9</sup> (para. 12.2)
- to minimise inconvenience to witnesses as an objective (para. 14.1)

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<sup>6</sup> A form prepared by the CPS containing the list of witnesses to attend court.

<sup>7</sup> However, it is the responsibility of the defence or prosecution to apply to the listing officer for the allocation of the case to the most suitable court room, for example where witnesses do not have to face the defendant or public gallery. If such a court room is not available, the court should be asked to consider transferring the case elsewhere (para. 16.2).

<sup>8</sup> Where this is not possible, the defence or the prosecution should apply to the court for special separate arrangements, for example the temporary use of court office space and the use of entrances and exits that are not usually available (para. 16.1).

<sup>9</sup> Court staff should be made aware of their roles and responsibilities as set out in the agreement.

- to signpost witness facilities such as the reception point, waiting area and those for disabled witnesses (para. 18.5)
- in cases adjourned part-heard, to provide the defence and prosecution with sufficient time to ascertain witness availability so that the case can be adjourned to a date that is, so far as possible, convenient to the witnesses (para. 18.6)
- where witnesses attend court but are not called to give evidence, to explain why the trial has collapsed or been adjourned (para. 18.7) and to consider adjourning briefly so that the defence and prosecution can explain the outcome of the case (para. 18.9)
- to respond to witness requests for details of the case results<sup>10</sup> and to ensure that nominated persons are available to deal with such queries (para. 18.11).

The National Standards for the prosecution and defence include the following:

- to inform the court of witnesses' special needs (for example, for the use of screens in court, reduced formality of court proceedings and the presence of support workers in court) (para. 9.2)
- to arrive at court at least 30 minutes before the hearing, so that they can introduce themselves to their witnesses (for prosecutors); to meet their witnesses at an agreed time (for defence lawyers); and where witness attendance is staggered (for prosecutors), to meet witnesses before they give evidence whenever possible (para. 18.2)
- to notify court staff at the earliest opportunity of their presence and who is available to deal with enquiries relating to particular cases (para. 18.4)
- to deal with witnesses' queries about court procedures (para. 18.3)
- to let witnesses refresh their memories by reading their statements (para. 18.3)
- to indicate how long witnesses have to wait before giving evidence (para. 18.3)
- to explain as quickly as possible where a hearing takes place but the witness is not required to give evidence (para. 18.8)
- to ask the court for a brief adjournment so that they can explain the case outcome to their witnesses. Particular care is needed to explain the outcome of cases to vulnerable witnesses and the assistance of interpreters, present at court, may be required (para. 18.9).

The National Standards state that unless it is necessary for evidential purposes, defence and prosecution witnesses should not be required to disclose their addresses in open court: 'exceptionally, it will be appropriate for the defence and prosecution to make application for the non-disclosure, in open court, of the names of witnesses' (para. 17.1). This goes further than the Victim's Charter which states non-disclosure is at the discretion of the bench. It seems that there is some onus on the court to ensure this Standard is observed.

It should be noted that responsibility to respond to witnesses' queries falls variously on the police (para. 2.3), the police and the defence (para. 2.3), court staff (para. 11.3), the prosecution and the defence (para. 18.3) and, in relation to court results, the police and the court (paras. 18.10 and 18.11). In the event of witnesses having to wait more than two hours<sup>11</sup> before being called to give evidence, the National Standard states that responsibility to inform them of the reasons for the delay and indicate the length of the wait is shared by court staff and defence and prosecution representatives (para. 18.6).

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<sup>10</sup> The duty to respond to such witness requests is also imposed on the police (para. 18.10).

<sup>11</sup> Or such shorter time as is agreed locally.

### *LCD model 'MCC Quality of Service Charter' and local Court Charters*

The revised Court Service Charter for Court Users issued in 1995 notes that it does not apply to magistrates' courts as MCCs are responsible for 'the efficient and effective administration' of local courts. The Court Service Charter states that many MCCs have developed their own charters and that a model charter is being developed as a guide. The Victim's Charter also refers to the 'growing number of local charters for magistrates' courts'.

The LCD provided a copy of the draft model Magistrates' Courts Committee Quality of Service Charter. The model is aimed at victims, prosecution and defence witnesses, defendants, families of defendants and others attending court and those coming to the family and youth courts. The model suggests that the following will be addressed:

- refreshment facilities or nearby alternatives
- provision of a television set in the youth court waiting area
- separate waiting areas for smokers and non-smokers
- 'necessary measures' to ensure personal security
- a glossary of legal terms in the court's general information booklet
- a subtitled video about the court shown in the waiting area
- a reception desk for enquiries in the entrance area
- aims concerning the maximum waiting time at court
- information about delays on the day or during the period up to hearing.

Under the heading 'Special Interests', the model refers to:

- separate waiting areas for defence and prosecution witnesses who feel vulnerable (to be notified to the court in advance)
- special arrangements for child witnesses made through the court's child witness liaison officer
- facilities for court users with special needs 'although there may be problems in older buildings'.

The model advises court users to make their own child care arrangements as 'the court does not have facilities for young children'.

Although the model Service Charter was still in draft and had not yet been distributed, the LCD had already asked courts to consider the appointment of a member of staff and deputy to act as child witness officer (CWO), akin to the position in the Crown Court, with responsibility for coordinating arrangements for child witnesses and to provide a focal point for liaison with other criminal justice system agencies on a case by case basis.<sup>12</sup> The CWO should:

- be named in a local information leaflet providing necessary information about the court to the child's supporter
- be informed of forthcoming child witness cases as soon as possible, especially if the TV link is to be used
- liaise with the listing officer and CPS to expedite the progress of such cases

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<sup>12</sup> MCG News, Autumn/ Winter 1996, Issue 14, Magistrates' Court Group.

- arrange a familiarisation visit through the CPS
- liaise with the listing officer to minimise the child's waiting time at court and to avoid the child giving evidence at the end of the day
- make arrangements for the child's arrival and departure to avoid confrontation with the defendant.

The LCD advised us that it had not yet had any feedback on the adoption of the CWO position.

#### *Magistrates' Courts Design Guide*

The LCD supplied the following extract from the Magistrates' Courts Design Guide (1995) for new buildings:

*'witnesses are generally expected to wait in the court hall. In the event that witnesses are deemed to be unduly apprehensive or in some respect sensitive, such as child witnesses in adult proceedings, they may wait in a multi-purpose room under the supervision of an usher'.*

There is provision in the brief for a 'specially designated room for prosecution witnesses, and possibly one for defence witnesses. Entry to such a room would need to be controlled to prevent unauthorised access'. The Design Guide makes no mention of separate entrances to the court building for witnesses.

#### *The Crown Prosecution Service*

In November 1993, the CPS issued a 'Statement on the treatment of victims and witnesses by the Crown Prosecution Service'. The statement, which included service standards, had to some extent been superseded by the National Standards and revised Victim's Charter. The CPS statement was under review at the time of our study with an anticipated completion date of August 1997. Agreement had been reached on providing the Crown Court Witness Service with LWAC forms (sheets listing witnesses to attend court) to assist in advance planning.

### Comparison of policy statements on witness accommodation

|   |  |
|---|--|
| <b>Victim's Charter</b>                           | witnesses can ask to wait separately from those involved in the case: court staff will make suitable arrangements wherever possible  |
| <b>National Standards</b>                         | where possible, to have separate waiting areas for defence and prosecution witnesses; where not possible, the defence or prosecution should apply to the court for special arrangements  |
| <b>LCD model 'MCC Quality of Service Charter'</b> | separate waiting areas for defence and prosecution witnesses who feel vulnerable, to be notified to court in advance   |
| <b>LCD Magistrates' Courts Design Guide</b>       | witnesses are generally expected to wait in the court hall. If 'unduly apprehensive or in some respect sensitive' they may wait in a multi-purpose room. There is provision in brief for a 'specially designated room for prosecution witnesses, and possibly one for defence witnesses' |

**Table 3.1**

### 3.3 Executive interviewees' perspectives on policy

#### *The responsibility of the magistrates' court*

Many of the magistrates' courts contacted for the study had invested considerable effort in addressing witness issues in conjunction with other agencies, despite the fact that, as one interviewee pointed out, the courts are 'not culturally set up to coordinate'.

*'We accept the spirit of the Courts Charter but it is to our benefit to be independent in identifying and meeting local need' (JCE).*

Many executive interviewees emphasised the need to distinguish the court's role from that of the police and prosecution. However, it was sometimes unclear where the line should be drawn in identifying their respective responsibilities.

*'Responsibility for the witness remains with he who calls him. The court must take care not to get over-involved' (JCE)*

*'Courts should not be seen as an adjunct to the prosecution and police and should not be seen to be doing their job for them. Our independence from the parties has to be seen. I am happy to work with others for change and to initiate and drive change which benefits us all and the public as well as the public purse, but I don't see how I can properly be responsible for other people's witnesses' (JCE)<sup>13</sup>*

*'In our view, courts should not have a responsibility for giving general information to witnesses at an information desk, but work hard at keeping witnesses in touch with case progress during the day' (JCE)*

*'If we are to share responsibilities for witness care, we are reliant on other agencies to tell us what is needed. However, where there is joint responsibility, there is a danger some witnesses will fall through a gap in the middle' (JCE).*

There was some concern that requiring all courts to provide specific services to witnesses would add to the pressure to close smaller courts, given current policy to rationalise the number of Petty Sessional Divisions and reduce the number of MCCs. It was pointed out that such closures would require some witnesses to travel further in order to attend a court with better services.

#### *The costs of implementing witness care policies*

Although magistrates' courts are not a national service, a number of changes have nevertheless been imposed from central government, for example a management information

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<sup>13</sup> The LCD response to this letter stated that it:

*'resists efforts by the police, CPS and others to expect the courts to assume greater responsibility than they should for witnesses. We have made it abundantly clear that the witnesses 'belong' to the parties and that the courts have limited, albeit important, responsibilities in this area'.*

system (MIS), cash limiting, and the creation of the Inspectorate and Justices' Chief Executives (JCEs). Court personnel expressed concern about the imposition of further witness service responsibilities without adequate resourcing. Local initiatives were therefore important.

In 1992, the key indicator on quality of service, part of magistrates' court MIS statistics, became linked to the grant, determining five per cent of the allocation. In 1994, following a review of the allocation formula, the LCD broke the link between this key indicator and the grant.<sup>14</sup> This was considered to represent a shift of emphasis away from witness care:

*'Strategic planning for demand-led witness services is now more difficult. If the caseload goes down, so does the budget' (JCE)*

*'Witness care is not core business in the strict sense. But when you consider the effect on the quality of evidence, it's as close to core business as you can be' (JCE).*

### *Training*

Key interviewees acknowledged that there is no national strategy in witness care training for magistrates, stipendiary magistrates and court staff. This was left to be dealt with at the local level. It was thought that greater emphasis needed to be placed on witness care in the courtroom. Guidance was needed on explanations for witnesses when cases were adjourned, intervention in inappropriate cross-examination and arrangements for vulnerable witnesses. These included the use of screens in the magistrates' court and videotaped interviews, TV links and screens in the youth court which, it was acknowledged, are infrequently used. Security staff, who played an increasing role in 'customer care' and in directing witnesses on arrival at court, also needed guidance. It was suggested that there should be a standard about what was covered in a pre-trial familiarisation visit, to ensure consistency.

## **3.4 The structure of a court-based witness service in the magistrates' court**

### *The scope of witness support services*

There was general agreement that court services for witnesses, including support services, should be seen as even-handed to both defence and prosecution witnesses:

*'A witness who feels secure and at ease is more likely to provide testimony of a higher quality than one who feels intimidated and isolated when giving evidence. However, we do have concerns that in providing a witness support scheme, the court, magistrates and personnel are not seen to be totally impartial in dealing with both prosecution and defence witnesses. Any support package must be such as would not compromise the impartiality of courts to those viewing the proceedings independently and objectively'.*

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<sup>14</sup> Paras. 2.9-2.10, Assessing Quality of Service in the Magistrates' Courts Service - a Thematic Report, HM Magistrates' Courts Service Inspectorate. The Inspectorate endorsed this decision: para. 6.4.

Several interviewees saw the need for an 'open door' policy which ensured that support services were also available to defendants, their families and other court users. A judge encountered during the study who sat in a combined court centre commented on the value of being able to send distressed participants in family proceedings in the county court to be dealt with by the Crown Court Witness Service located in the same building. Part IV of the Family Law Act 1996, to be implemented in October 1997, deals with domestic violence and increases the range of persons eligible to apply for an order. One Justices' Chief Executive anticipated that this legislation would place new demands on magistrates' courts, for example for separate waiting areas. One Director of Social Services felt there was 'a need to go beyond the conventional model which has been developed essentially for adult witnesses'; another cautioned that such a service should not confuse the role of the *guardian ad litem* or court welfare service.

It was pointed out that although there were national and local materials for adult witnesses, there were no equivalent explanatory leaflets for young witnesses in the magistrates' court or youth court. The Child Witness Pack, produced by an inter-agency group and published by the NSPCC and ChildLine in 1993, was aimed at Crown Court proceedings. The NSPCC planned to update the Pack in 1997 to include guidance on the magistrates' court and youth court.

### *The youth court*

The Criminal Justice Act 1991 established the youth court which began operation in October 1992. One of the major changes was the raising of the age limit from 17 to 18. Research examining the implementation of the Act found that 41 per cent of youth court defendants were aged 17 compared with just six per cent of juvenile court defendants.<sup>15</sup> The Home Office Review of Delay in the Criminal Justice System (February 1997) found that 'almost everyone... agreed' that 17-year-olds, who now account for a third of all cases, 'are unsuitable for the jurisdiction of the youth court'. The Review reported that they tended to be experienced as offenders and were often disruptive and uncooperative. It recommended that they be returned to the jurisdiction of the adult court.

Executive interviewees observed that this significant shift in defendant age group has had a profound effect on the atmosphere of the youth court environs and has often worsened conditions for witnesses. Smaller, less formal facilities had become vulnerable to overcrowding and intimidation. The Criminal Law Solicitors Association commented that:

*'Youth courts were not built to take in the very large 17-year-old population and the facilities in many are totally inadequate. There is an urgent need to split the lists according to age'.*

The fact that the youth court is not open to the public had significant implications for witnesses. Even where a court-based witness service was available, not all were able to escort a witness into court but had to request permission on a case-by-case basis. Friends and relatives could not automatically accompany a witness into the courtroom; at one court, young friends were not allowed into the building with the witness. Victims were not entitled

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<sup>15</sup> D. O'Mahoney and K. Haines, An evaluation of the introduction and operation of the Youth Court. Home Office Research Study 152 (1996).

to be in court to follow the proceedings. It could also be difficult to discover the outcome of youth court cases.

### *The role of the probation service with victims*

In recent years, the probation service has increasingly assumed specific responsibilities for liaison with victims, or the families of victims, of offenders imprisoned for serious violent or sexual offences. The 1990 Victim's Charter provided for victims of life sentence prisoners to be contacted. Probation Circular 61/1995 requires contact with victims to be attempted where the offender is sentenced to four years imprisonment or longer, for a serious sexual or violent offence.<sup>16</sup> Probation services may also extend this to instances where the offender is sentenced to a shorter term of imprisonment.

In 1996, the Association of Chief Officers of Probation and Victim Support issued a Joint Statement entitled 'The release of prisoners – informing, consulting and supporting victims'. This states that initial contact will usually take place within two months of the offender being sentenced. The probation officer gives the victim information about the operation of prison sentences of the type to which the offender has been sentenced and what options the victim may exercise in relation to that process, in particular in putting forward the victim's observations about the offender's release.

It was the experience of the probation service that its general welfare role at court in relation to the family of the defendant had become restricted as fewer probation officers attended court.

### *The structure of Victim Support and the Witness Service*

A Structural Review of Victim Support is being conducted during 1996–97. Some of the issues addressed by the Consultative Document (Phase I, May–September 1996) were relevant to the future organisation and delivery of witness services in magistrates' courts.

The Consultative Document highlighted that there was no agreement on a 'local' identity for Victim Support schemes. Catchment areas covered by affiliated schemes varied from county schemes with several branches to those covering only one town. Workloads also varied from a few hundred victims a year to many thousands, and the size of staff and volunteer groups reflected these differences (paras. 2.16-17).

Schemes were encouraged to cooperate with others in 'planning areas' to ensure consistent service delivery and the optimum use of resources. Most had opted for the police authority area (possibly covering more than one county) or the county as the most suitable basis for planning. Different models had developed. The county had the advantage of being able to organise all aspects of work centrally but was disadvantaged in its relationship with the National Association, as the single affiliation entitled it to only one vote in national elections and at general meetings. In many counties, separately affiliated schemes had grouped together to form county 'federations' or more informal 'associations' (paras. 2.24-27).

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<sup>16</sup> See also National Standards for the Supervision of Offenders in the Community (1995) and the Victim's Charter (1996).

Unlike Victim Support schemes, the CCWS received both salaries and running costs from central government. The differences in client group, funding and service provision had led to a recommendation in an efficiency audit<sup>17</sup> that the Witness Service should be 'organised in a distinctly separate structure within Victim Support, based on a county or possibly a national structure'. The auditors also recommended that the funding should be provided by the LCD, rather than by the Home Office, as the former had 'a closer interest in ensuring value for money in the courts'. The National Council for Victim Support had rejected these recommendations:

*'The proposal of a distinctly separate structure is considered to overlook the close liaison which is required with local schemes who may be seeing vulnerable victims and their families both before and after the court appearance. The sharing of information, skills, and in many cases personnel, between local schemes and Witness Services is regarded as vital. Funding from the Lord Chancellor's Department could result in Witness Service co-ordinators becoming accountable to court personnel instead of to multi-agency committees and the independent voice on behalf of witnesses could be lost'. (paras. 2.30-32)*

The Structural Review Consultative Document emphasised the importance of the equitable distribution of new funding if the Witness Service was extended to cover magistrates' courts:

*'The Witness Service has already attracted a higher level of political interest than local schemes, partly because the courts are more visible and press coverage is high. Considerable cost would be involved in covering the magistrates' courts and it is vital that this should not be at the expense of the traditional work of Victim Support, which is already comparatively underfunded in relation to the newer and less numerous witness services'. (para. 2.33)*

At the time of our study, CCWSs were run by affiliated Victim Support schemes, county groups of schemes (which may not have a legal constitution) and the National Office. Witness Services were not separately affiliated to the National Association.<sup>18</sup> The Structural Review acknowledged the need for revision of this structure and noted the 'fundamental problem' caused by the fact that Witness Services were not separate legal entities. The Review invited members to comment on whether the Witness Service should be accorded full membership of the Association on equal terms to schemes (paras. 2.34-37).

#### *Witness services in magistrates' courts*

In December 1996, Victim Support produced a report entitled 'Victim Support in the Magistrates' Courts – Review of Services and Future Development Issues'. This report emphasises 'the need to provide a consistent service to individual victims whose cases progress through the system' and recommends that:

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<sup>17</sup> Value for Money Audit of Victim Support (March 1994) Coopers and Lybrand.

<sup>18</sup> They pay no fees and have no vote, although they are required to comply with a Code of Practice and receive all the benefits of membership.

*‘a magistrates’ court service should be integrated with the existing management structure of Victim Support. Given the local remit of magistrates’ courts, it is logical to suggest that local schemes should manage the service, through whatever management structure is agreed as the result of the structural review’.* (p. 8)

In discussion, Victim Support National Office took the view that:

- schemes’ ability to provide a consistent level of service to victims around the country varied because local schemes were not fully funded.<sup>19</sup> If not addressed, these financial shortfalls would create difficulties if Victim Support formally took on responsibility for magistrates’ court witness services
- magistrates’ court witness services could be regarded only as ‘experiments’ because of their short-term funding and in consequence, this area of work was not yet the subject of review by Victim Support field teams
- Victim Support members needed to consider the implications of their role with regard to working with defence witnesses
- it would be preferable for support to defendants and defendants’ friends and relatives to be provided by the probation service
- a court-based witness service should not extend to witnesses in civil proceedings.

Other key interviewees commented that because of its organisational identity, it was difficult for Victim Support as an organisation to provide services to defence witnesses and possibly even defendants.<sup>20</sup> Similarly, defence witnesses could be deterred from approaching Victim Support. Most CCWS interviewees felt that they were better placed to manage an independent and even-handed support service in magistrates’ courts than were most community based Victim Support schemes. However, they acknowledged that a perception of bias remained, as the CCWS is clearly affiliated to Victim Support on its literature and posters.

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<sup>19</sup> ‘The association is committed to providing the best services possible within the resources available, but those resources are not evenly spread’ p. 3, Victim Support Structural Review 1996–97 (Consultative Document Phase I, May–September 1996). See also para. 2.7 ‘... schemes are already stretched to capacity in providing services. Each year, a smaller proportion of victims referred are actually seen and for most schemes service provision must take priority’.

<sup>20</sup> Victim Support’s Statement of Common Purpose says that ‘the term “victims of crime” may include families and friends of victims who have been affected by crime *and witnesses who are called upon to give evidence*’ (emphasis added).

## 4 ANALYSIS OF RESPONSES TO COURT SURVEY

### 4.1 Introduction

This chapter describes the results of field work carried out in five magistrates' and youth courts between November 1996 and January 1997. It summarises the views of 275 court users, most of whom were witnesses, and 51 observers (court staff, police officers, prosecution and defence lawyers, social workers, probation officers and representatives of voluntary organisations).

In the tables below, some percentages do not add up to 100 per cent due to rounding.

### 4.2 Profile of interviewees

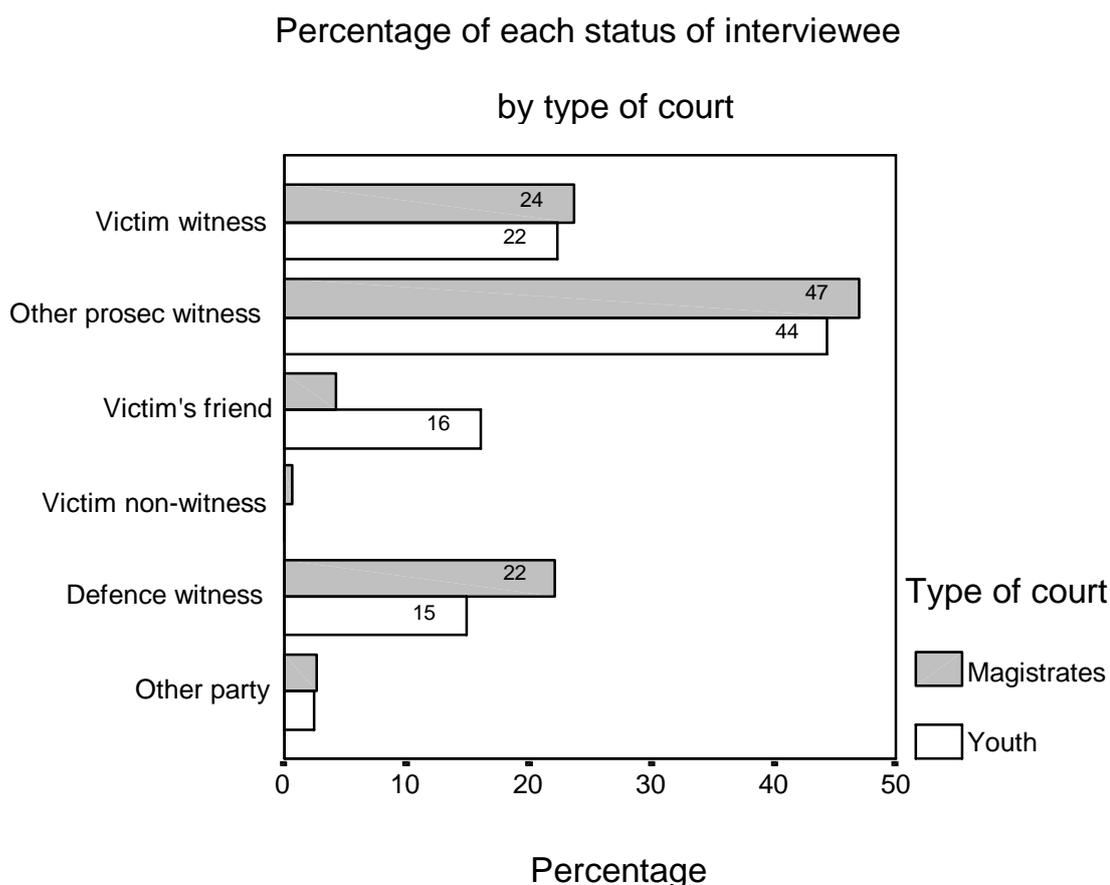
*Interviewees by location and type of court*

**Numbers of interviewees per court by type of court**

|                         |              | Type of court |           | Total       |
|-------------------------|--------------|---------------|-----------|-------------|
|                         |              | Magistrates   | Youth     |             |
| <b>Court identifier</b> | <b>A</b>     | 39<br>14%     | 10<br>4%  | 49<br>18%   |
|                         | <b>B</b>     | 36<br>13%     | 8<br>3%   | 44<br>16%   |
|                         | <b>C</b>     | 38<br>14%     | 29<br>11% | 67<br>24%   |
|                         | <b>D</b>     | 42<br>15%     | 9<br>3%   | 51<br>19%   |
|                         | <b>E</b>     | 39<br>14%     | 25<br>9%  | 64<br>23%   |
|                         | <b>Total</b> | 194<br>71%    | 81<br>29% | 275<br>100% |

**Table 4.1**

*Status of interviewee by type of court*



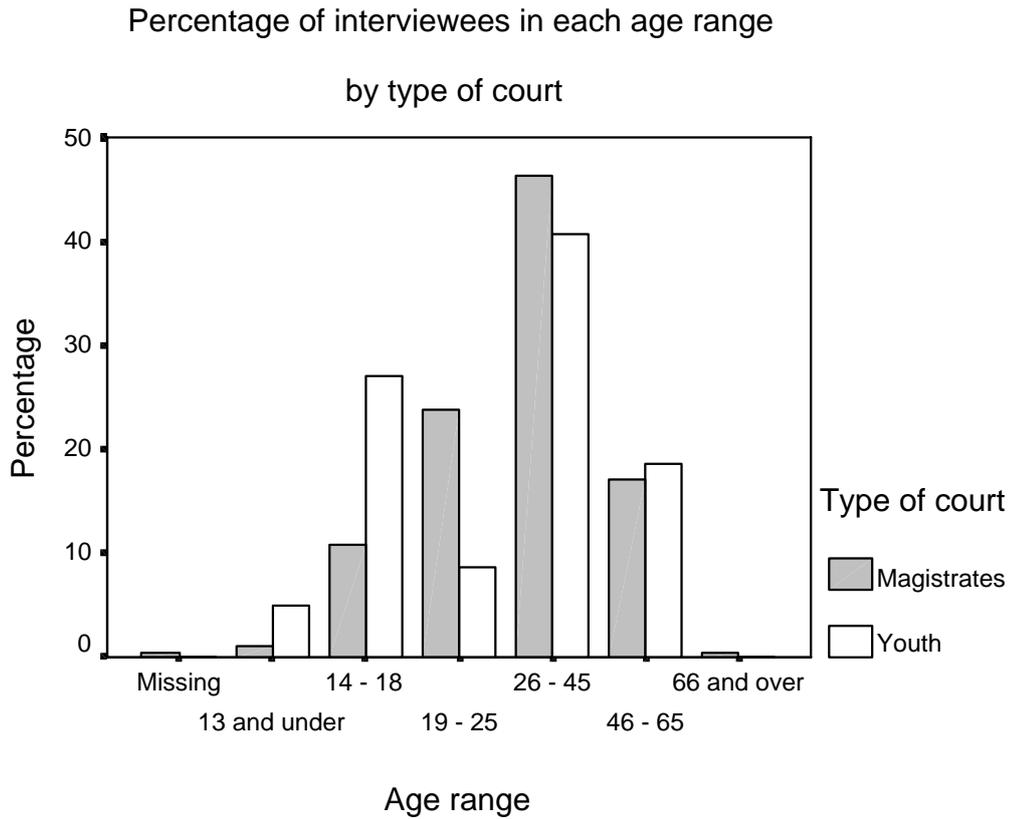
**Figure 4.1**

The terms of reference of the study required interviews to be conducted with ‘victims and all other witnesses appearing either for the prosecution or the defence in criminal matters, together with members of the public directly affected by particular cases who have chosen to attend court’. A total of 275 interviews were conducted.

Of these, 246 (89%) were with people called to court to give evidence. Sixty-four (26 per cent of the 246) were victim witnesses, 52 per cent were other prosecution witnesses and the remaining 22 per cent were defence witnesses.

Twenty-eight interviewees (10 per cent of the total) were friends or relatives who attended court to support victim witnesses or defence witnesses (all those in the ‘other party’ category supported defence witnesses). It proved very difficult to identify other categories of non-witnesses with a direct interest in the case (see Chapter 2 ‘Methodology’ above). In the event, only one victim non-witness was identified.

Age



**Figure 4.2**

Eighteen per cent of interviewees were under the age of 18 although 44 per cent of these juvenile witnesses (23 out of 49) appeared in the magistrates’ court. Only one interviewee was aged 66 or over.

Gender

**Gender of interviewees by type of court**

|               |             | Gender     |            | Total       |
|---------------|-------------|------------|------------|-------------|
|               |             | Female     | Male       |             |
| Type of court | Magistrates | 91<br>47%  | 103<br>53% | 194<br>100% |
|               | Youth       | 28<br>35%  | 53<br>65%  | 81<br>100%  |
| <b>Total</b>  |             | 119<br>43% | 156<br>57% | 275<br>100% |

**Table 4.2**

A higher proportion of interviewees in the youth court were male.

*Ethnic origin*

**Ethnic origin by type of court**

|                      |                        | Type of court |           | Total       |
|----------------------|------------------------|---------------|-----------|-------------|
|                      |                        | Magistrates   | Youth     |             |
| <b>Ethnic origin</b> | <b>Bangladesh</b>      | 4             | 1         | 5<br>2%     |
|                      | <b>Black African</b>   | 2             |           | 2<br>1%     |
|                      | <b>Black Caribbean</b> | 3             | 6         | 9<br>3%     |
|                      | <b>Black Other</b>     | 1             |           | 1<br>0%     |
|                      | <b>Chinese</b>         | 1             |           | 1<br>0%     |
|                      | <b>Indian</b>          | 6             | 1         | 7<br>3%     |
|                      | <b>Pakistani</b>       | 7             | 3         | 10<br>4%    |
|                      | <b>Other group</b>     | 4             | 3         | 7<br>3%     |
|                      | <b>White</b>           | 166           | 67        | 233<br>85%  |
|                      | <b>Total</b>           | 194<br>71%    | 81<br>29% | 275<br>100% |

**Table 4.3**

*Witnesses' physical or other difficulties*

**Special needs by type of court**

|                                    |                 | Type of court |       | Total |
|------------------------------------|-----------------|---------------|-------|-------|
|                                    |                 | Magistrates   | Youth |       |
| <b>Do you have a problem with?</b> | <b>Mobility</b> | 1             | 1     | 2     |
|                                    | <b>Hearing</b>  | 3             | 1     | 4     |
|                                    | <b>Sight</b>    | 2             | 1     | 3     |
|                                    | <b>Reading</b>  | 3             | 2     | 5     |
|                                    | <b>Other</b>    | 12            | 6     | 18    |
| <b>Total</b>                       |                 | 21            | 11    | 32    |

**Table 4.4**

Witnesses were asked if they had particular medical problems. Thirty-two said they had (13 per cent of all witnesses). Of the 18 witnesses reporting problems in the ‘other’ category, nine suffered from physical complaints including diabetes<sup>21</sup> and emphysema. A few reported more than one medical problem. Six said they were suffering from depression, anxiety or stress-related difficulties, for example:

*‘I am suffering from stress due to a head injury’ (victim witness)*

*‘I don’t seem to hear people well when I’m under stress, so everyone tells me’ (prosecution witness)*

*‘Anger, fear and the past are all upsetting me right now’ (defence witness)*

*‘I have a stutter when I’m nervous’ (defence witness).*

Four had language difficulties, most of which were combined with another problem:

*‘My first language is German, and under stress I find it difficult to speak or even remember English’ (prosecution witness, youth court)*

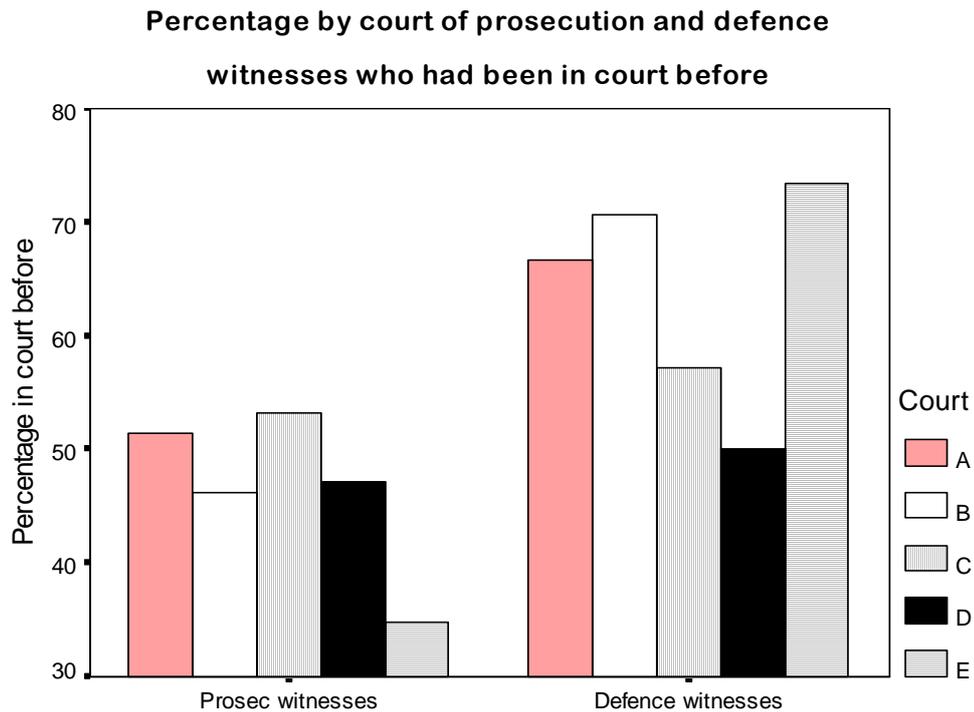
*‘I have hearing difficulties and speak only a little English’ (victim witness, youth court)*

*‘I have reading difficulties and can’t speak English but I’ve brought a friend to help’ (defence witness, youth court).*

It was beyond the scope of the study to investigate whether the prosecution and defence were aware of these witnesses’ problems, many of which had a bearing on ability to give evidence.

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<sup>21</sup> This witness described the experience of waiting at court particularly difficult because there were no refreshment facilities and the building was cold.



**Figure 4.3**

The height of the blocks represents the percentage of prosecution and of defence witnesses in each court who had been in court before. Overall, 46 per cent of all prosecution witnesses had attended court before, compared with 65 per cent of defence witnesses. These proportions were roughly similar across the fieldwork courts, with the exception of Court E where only 35 per cent of prosecution witnesses said that they had attended court on a previous occasion.

Witnesses were not asked specifically whether a previous court attendance had been in connection with the current case, but many volunteered that it had. Nevertheless, it is not possible to conclude from these figures that defence witnesses suffer more than prosecution witnesses from adjournments.

**Previous court experience of witnesses by status and type of court**

|                            |                      |                    | Have you been in court before? |           | Total       |
|----------------------------|----------------------|--------------------|--------------------------------|-----------|-------------|
|                            |                      |                    | No                             | Yes       |             |
| <b>Prosecution witness</b> | <b>Type of court</b> | <b>Magistrates</b> | 69<br>50%                      | 68<br>50% | 137<br>100% |
|                            |                      | <b>Youth</b>       | 34<br>63%                      | 20<br>37% | 54<br>100%  |
| <b>Defence witness</b>     | <b>Type of court</b> | <b>Magistrates</b> | 16<br>37%                      | 27<br>63% | 43<br>100%  |
|                            |                      | <b>Youth</b>       | 3<br>25%                       | 9<br>75%  | 12<br>100%  |

**Table 4.5**

A higher proportion of prosecution witnesses in the youth court were appearing for the first time (63 per cent as compared with 50 per cent in the magistrates' court). For defence witnesses, the position was reversed with 25 per cent in the youth court appearing for the first time as compared with 37 per cent in the magistrates' court.

*Were witness interviewees required to give evidence?*

Follow-up questions were put to 217 witnesses after their experience at court. Of these, 99 (46%) had actually been required to give evidence. The following tables give details about the composition of this group:

**Witnesses who gave evidence by court**

|              |          | Did you give evidence? |           | Total       |
|--------------|----------|------------------------|-----------|-------------|
|              |          | No                     | Yes       |             |
| <b>Court</b> | <b>A</b> | 24<br>63%              | 14<br>37% | 38<br>100%  |
|              | <b>B</b> | 9<br>26%               | 26<br>74% | 35<br>100%  |
|              | <b>C</b> | 33<br>73%              | 12<br>27% | 45<br>100%  |
|              | <b>D</b> | 14<br>37%              | 24<br>63% | 38<br>100%  |
|              | <b>E</b> | 38<br>62%              | 23<br>38% | 61<br>100%  |
| <b>Total</b> |          | 118<br>54%             | 99<br>46% | 217<br>100% |

**Table 4.6**

**Witnesses who give evidence by type of court**

|               |             | Did you give evidence? |           | Total       |
|---------------|-------------|------------------------|-----------|-------------|
|               |             | No                     | Yes       |             |
| Type of court | Magistrates | 72<br>46%              | 84<br>54% | 156<br>100% |
|               | Youth       | 46<br>75%              | 15<br>25% | 61<br>100%  |
| Total         |             | 118<br>54%             | 99<br>46% | 217<br>100% |

**Table 4.7**

Only a quarter of youth court witnesses gave evidence, compared with over half the witnesses in the magistrates' court.

**Witnesses who gave evidence by status**

|                       |                     | Did you give evidence? |           | Total       |
|-----------------------|---------------------|------------------------|-----------|-------------|
|                       |                     | No                     | Yes       |             |
| Status of interviewee | Prosecution witness | 96<br>57%              | 72<br>43% | 168<br>100% |
|                       | Defence witness     | 22<br>45%              | 27<br>55% | 49<br>100%  |
| Total                 |                     | 118<br>54%             | 99<br>46% | 217<br>100% |

**Table 4.8**

### 4.3 Information provided to the interviewees

#### *Length of prior notice about the court hearing*

Timing of receipt of notice of hearing

|                       |                     | How long ago were you told date and time of today's hearing? |                  |                            |                   | Total       |
|-----------------------|---------------------|--|------------------|----------------------------|-------------------|-------------|
|                       |                     | Less than 24 hrs   | Less than 1 week | Between a week and a month | More than a month |             |
| Status of interviewee | Prosecution witness | 4<br>2%  | 11<br>6%         | 94<br>49%                  | 82<br>43%         | 191<br>100% |
|                       | Defence witness     | 1<br>2%  | 9<br>16%         | 21<br>38%                  | 24<br>44%         | 55<br>100%  |
| Total                 |                     | 5<br>2%  | 20<br>8%         | 115<br>47%                 | 106<br>43%        | 246<br>100% |

**Table 4.9**

#### *Receipt of the leaflet "Witness in Court"*

This illustrated Home Office leaflet covers both the magistrates' court and Crown Court. Last issued in 1993, it was undergoing revision at the time of the study. The leaflet was sent out with the prosecution witness citation in each of the fieldwork areas. Many prosecution witnesses reported receiving it but only two defence witnesses had done so.

Receipt of "Witness in Court" leaflet

|                       |                     | Did you receive "Witness in Court"? |            | Total       |
|-----------------------|---------------------|-------------------------------------|------------|-------------|
|                       |                     | No                                  | Yes        |             |
| Status of interviewee | Prosecution witness | 55<br>29%                           | 135<br>71% | 190<br>100% |
|                       | Defence witness     | 53<br>96%                           | 2<br>4%    | 55<br>100%  |
| Total                 |                     | 108<br>44%                          | 137<br>56% | 245<br>100% |

**Table 4.10**

Only Court E departed from the above pattern. At this court only 17 out of 47 prosecution witnesses (36%) said they had received the leaflet.

#### *Receipt of local instructions about getting to court*

Fifty-four per cent of PSDs responding to the JUSTICE survey of court services and facilities reported providing a local information booklet.<sup>22</sup> All of the fieldwork areas had

<sup>22</sup> The numbers were lower for Wales and the South West.

such booklets but the effectiveness with which these reached each court's witnesses differed.

**Receipt of instructions on how to get to court**

|                       |                     | Were you sent instructions on how to get to court? |            | Total       |
|-----------------------|---------------------|--|------------|-------------|
|                       |                     | No   | Yes        |             |
| Status of interviewee | Prosecution witness | 69<br>37%  | 117<br>63% | 186<br>100% |
|                       | Defence witness     | 45<br>82%  | 10<br>18%  | 55<br>100%  |
| <b>Total</b>          |                     | 114<br>47%   | 127<br>53% | 241<br>100% |

**Table 4.11**

**Receipt of information on what to do on arrival**

|                       |                     | Were you sent info on what to do on arrival? |            | Total       |
|-----------------------|---------------------|--|------------|-------------|
|                       |                     | No   | Yes        |             |
| Status of interviewee | Prosecution witness | 93<br>50%                                    | 94<br>50%  | 187<br>100% |
|                       | Defence witness     | 48<br>87%                                    | 7<br>13%   | 55<br>100%  |
| <b>Total</b>          |                     | 141<br>58%                                   | 101<br>42% | 242<br>100% |

**Table 4.12**

Sixty-three per cent of prosecution witnesses received instructions on how to get to court, but only half recalled receiving instructions about what to do on arrival. Court E was again anomalous with six out of 46 prosecution witnesses saying they did not receive instructions on how to get to court and only two receiving instructions about what to do on arrival. There was little difference between the experience of youth and magistrates' court witnesses.

*Whether witnesses were told how long they would wait at court*

**Information on waiting time at court**

|                              |                            | Did anyone tell you how long you would have to wait at court? |           | Total       |
|------------------------------|----------------------------|---|-----------|-------------|
|                              |                            | No  | Yes       |             |
| <b>Status of interviewee</b> | <b>Prosecution witness</b> | 165<br>87%  | 25<br>13% | 190<br>100% |
|                              | <b>Defence witness</b>     | 49<br>89%   | 6<br>11%  | 55<br>100%  |
| <b>Total</b>                 |                            | 214<br>87%  | 31<br>13% | 245<br>100% |

**Table 4.13**

Few witnesses for either the prosecution or defence were informed of how long they would have to wait.<sup>23</sup> The one exception was Court D where 16 out of 34 prosecution witnesses and three out of 10 defence witnesses were given an estimate of waiting time.

The six defence witnesses received their information from the defence solicitor. Sources for prosecution witnesses were the CPS (15), the witness service (4), the police (3) and court staff (2).

No new pattern emerged when the responses were analysed by magistrates' court and youth court.

Eighteen witnesses recalled how long they were told they would have to wait:

**Waiting time estimates given to witnesses**

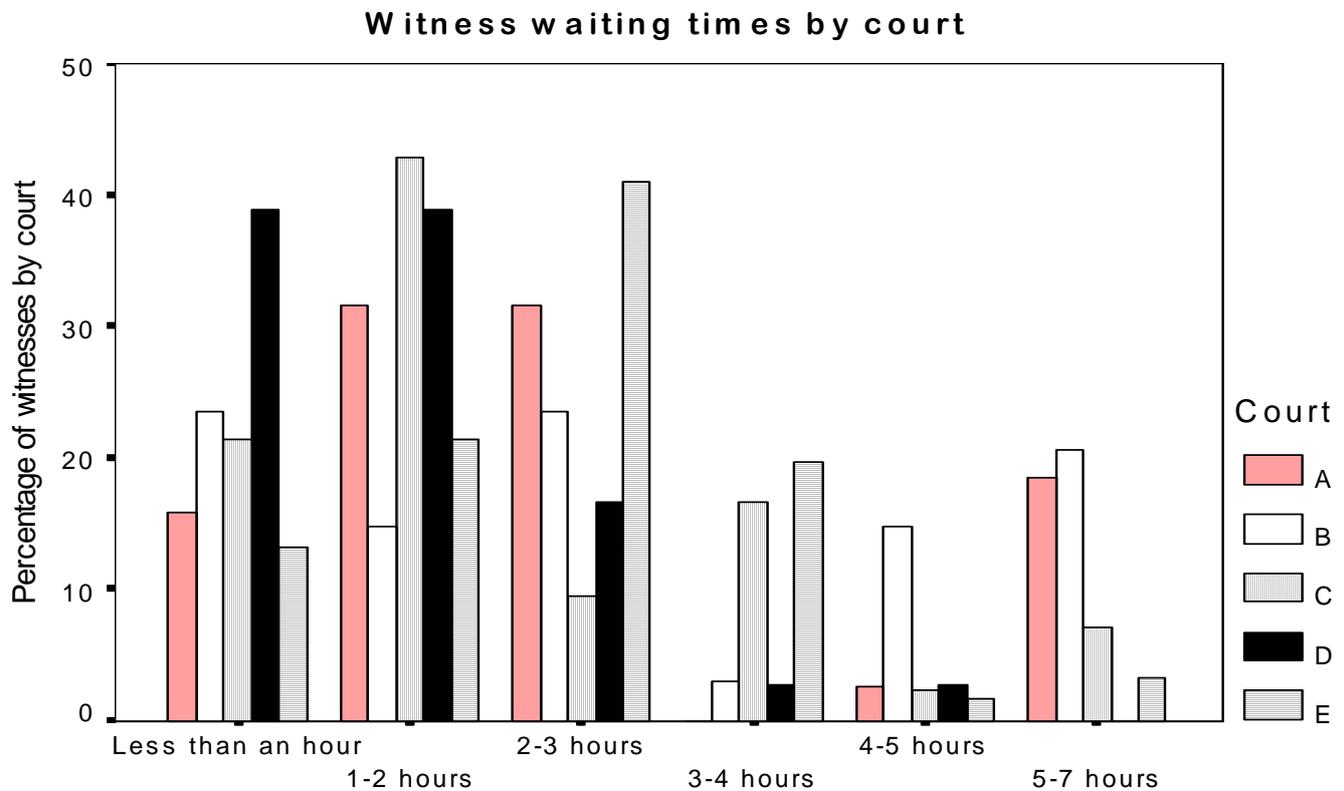
|                          | Frequency | Percent |
|--------------------------|-----------|---------|
| <b>Less than an hour</b> | 10        | 56%     |
| <b>1 to 2 hours</b>      | 6         | 33%     |
| <b>Half a day</b>        | 1         | 6%      |
| <b>A whole day</b>       | 1         | 6%      |
| <b>Total</b>             | 18        | 100%    |

**Table 4.14**

#### **4.4 Witness waiting times**

<sup>23</sup> In a LCD study investigating the need for Saturday morning or evening courts, the most frequent reason cited by non-professional court users for finding coming to court inconvenient was not related to time of day or days of the week but the fact that a precise time was not allocated to the case, resulting in long waits: Magistrates' Courts Users (June 1996) MORI.

Of the 217 witnesses spoken to after court, 211 indicated how long they had waited. Their responses are illustrated in the following figures and tables:



**Figure 4.4**

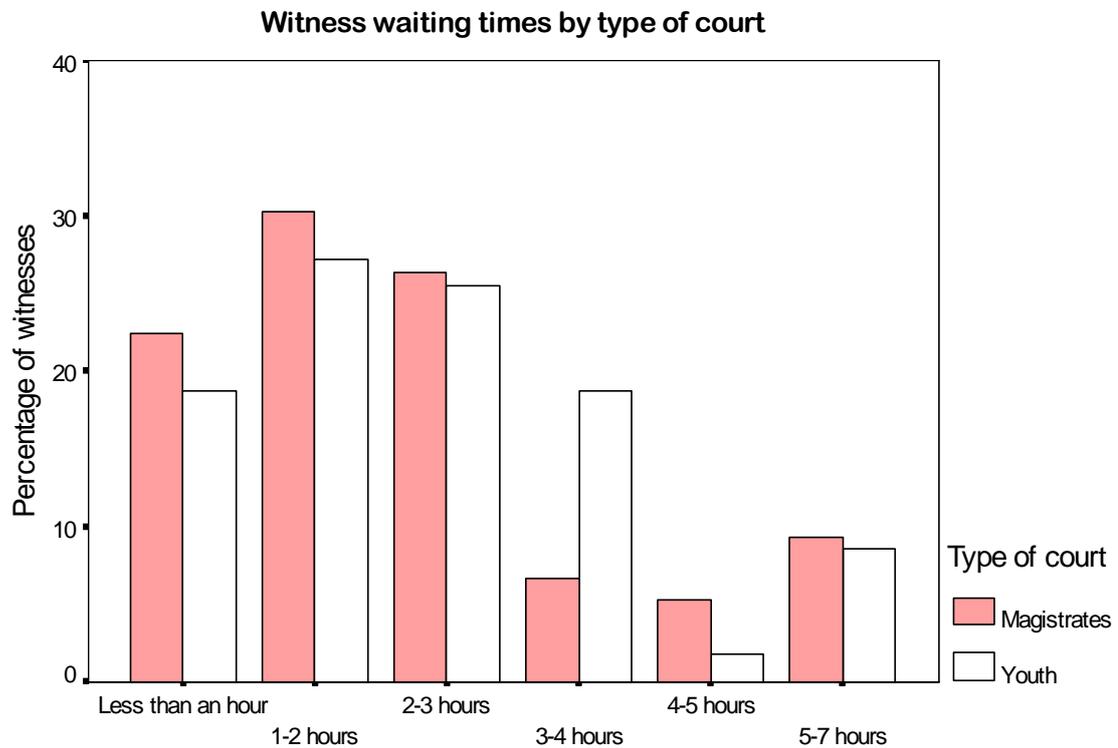
The average waiting times per court were as follows:

**Average waiting times in hours**

| <b>Court</b>   | <b>Waiting time</b> |
|----------------|---------------------|
| <b>A</b>       | 2.43                |
| <b>B</b>       | 2.66                |
| <b>C</b>       | 1.83                |
| <b>D</b>       | 1.25                |
| <b>E</b>       | 2.15                |
| <b>Overall</b> | 2.07                |

**Table 4.15**

An analysis of waiting times by type of court yields the following picture:



**Figure 4.5**

The average waiting time for youth court witnesses was 2.90 hours as against 2.75 hours for witnesses in the magistrates' court.

The length of time witnesses were required to wait seemed to be unrelated to whether or not they actually gave evidence. However, as discussed above under Methodology, we were less likely to have interviewed witnesses who were dismissed immediately on arrival at court.

Fifteen witnesses had been given a prior estimate of how long they would have to wait. For seven of these, the estimate proved to be accurate; six witnesses waited longer than expected and for two the wait was shorter than the estimate.

The length of witness waiting time on the day of trial was a common cause of complaint. Witnesses' difficulties were sometimes exacerbated by poor waiting facilities, absence of explanations and the double-booking of trials:

*'We've been here three hours already and have now been told that the case won't start till 2pm. There is no place to get tea, lunch or anything' (prosecution witness, youth court)*

*'The defendant didn't turn up again. They still made us wait till 4pm then said we have to come back on Thursday. That will be the fourth time. The*

*other witness's mother doesn't know if she can get another day off work. It was an awful day, it's not fair' (victim's mother, youth court)*

*'We were told to be here by 2pm but another trial has just started in there before us. It seems strange that they would tell us to come at 2pm as well' (defence witness).*

#### 4.5 Witnesses' worries

##### *Specified concerns*

While waiting to give evidence, witnesses were asked if they were concerned about a number of specified matters. Three questions ('where to wait', 'seeing the defendant' and 'having their name and address given aloud in court'<sup>24</sup>) related to witnesses' feelings about personal security. Two questions ('not understanding what was happening in court' and 'being asked questions I could not answer') concerned anxieties about the court process. The 'security' concerns ranked higher in the responses of youth court witnesses compared with magistrates' court witnesses who were more worried about the court process.

The following table presents witnesses' responses. Percentages are of all witnesses called to appear in the specified type of court.

**Witness worries by type of court**

|                 |   | Type of court |             |
|-----------------|---|---------------|-------------|
|                 |   | Magistrates   | Youth       |
| Nature of worry | Where I would wait                            | 56<br>31%     | 24<br>36%   |
|                 | Seeing the defendant                          | 77<br>43%     | 27<br>41%   |
|                 | Having my name and address given aloud        | 83<br>46%     | 28<br>42%   |
|                 | Not understanding what was happening in court | 79<br>44%     | 22<br>33%   |
|                 | Being asked questions I could not answer      | 86<br>48%     | 20<br>30%   |
|                 | Anything else                                 | 70<br>39%     | 17<br>25.8% |

**Table 4.16**

The same information can be analysed according to the type of witness. Percentages are of all witnesses of the specified type.

<sup>24</sup> Many witnesses were unaware of the possibility that their address would be read out until this question was posed to them.

**Witness worries by type of witness**

|                        |  | Type of witness |           |
|------------------------|--|-----------------|-----------|
|                        |  | Prosecution     | Defence   |
| <b>Nature of worry</b> | <b>Where I would wait</b>                            | 67<br>35%       | 13<br>24% |
|                        | <b>Seeing the defendant</b>                          | 97<br>51%       | 7<br>13%  |
|                        | <b>Having my name and address given aloud</b>        | 101<br>53%      | 10<br>18% |
|                        | <b>Not understanding what was happening in court</b> | 78<br>41%       | 23<br>42% |
|                        | <b>Being asked questions I could not answer</b>      | 87<br>46%       | 19<br>35% |
|                        | <b>Anything else</b>                                 | 73<br>38%       | 14<br>26% |

**Table 4.17**

There were no significant differences in the pattern of concern for witnesses aged 18 or under as compared to those over 18. The anxieties of prosecution witnesses were generally higher than those of defence witnesses. Nevertheless, some defence witnesses shared prosecution witness concerns about waiting areas, seeing the defendant and having their name and address read out in court. Significantly, defence and prosecution witnesses were equally worried about not understanding what was happening in court. The pattern of responses was similar across the fieldwork courts with the lowest prosecution witness anxiety levels at Court C.

*Witnesses' concerns in their own words*

Witnesses were also asked whether they had worries other than those in the specified list. The 87 who said they had such worries were invited to describe them. In fact, many of their concerns echoed their earlier responses.

**Worries volunteered by witnesses**

|   |    |     |
|---|----|-----|
| <b>confronting the other side</b>               | 38 | 44% |
| <b>not knowing what to expect</b>               | 31 | 36% |
| <b>the whole court process</b>                  | 22 | 25% |
| <b>delay since the alleged offence</b>          | 21 | 24% |
| <b>cross-examination</b>                        | 14 | 16% |
| <b>being called to court at the last minute</b> | 10 | 11% |
| <b>taking time off work</b>                     | 9  | 10% |
| <b>language difficulties</b>                    | 7  | 8%  |

**Table 4.18**

Victim witnesses who were anxious about ‘confronting the other side’ also mentioned concerns over pre-trial intimidation and repercussions after the case was over. Several mentioned that the defendant lived near their home.<sup>25</sup>

*‘I stupidly wrote my telephone number on the accident sheet and exchanged it with the defendant, then got intimidated by him till I changed my phone number’ (victim witness)*

*‘I have been threatened and so have my family and all my windows have been broken. No help or support have been offered and I have to wait six months to move house’ (victim witness, youth court)*

*‘Intimidation has been persistent since the offence was reported but there has been no support from the police’ (victim witness, youth court)*

*‘There should have been someone to stop intimidation pre-trial’ (mother of 12-year-old victim witness)*

*‘The defendant had three friends who turned up after the trial started. They were not allowed in, tried to push their way in and had to be escorted from the building’ (victim witness)*

*‘We had to get a police escort from the building. The defendants’ mates were all outside’ (victim witness)*

*‘A police officer escorted and stayed with us all the time but it would be better if we could wait in a separate place from the defendant’s friends. One of them was arrested just now for harassing us’ (victim witness, youth court).*

Three prosecution witnesses expressed fear of police witnesses appearing for the defence in their case (the defendant was apparently a police officer):

*‘I feel the police staring at me. They might see me out in the street and stop me for no reason’.*

Five of those who were worried about ‘confronting the other side’ were defence witnesses:

*‘I don’t want to have to sit too close to the prosecution witnesses’.*

Most witnesses who wanted more information had been called by the prosecution:

*‘Basically no one’s told us what to do’ (prosecution witness)*

*‘I’d like to be told more about what’s going on; I’ve been here for about an hour and a half already’ (prosecution witness)*

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<sup>25</sup> An unpublished survey by the Kent Police quoted by the Efficiency Scrutiny indicated that 11 per cent of magistrates’ court witnesses had been subjected to intimidation before being called into the courtroom: para. 5.39 (1995).

*'I don't know how the system operates' (prosecution witness)*

*'No-one's told us anything' (victim witness, youth court)*

*'They've got the defendant down for two courts this afternoon. Do you think this is the right one?'* (prosecution witness).

Some were clear that they wanted more information from the prosecutor:

*'More information is needed by witnesses. I expected to meet the CPS beforehand' (prosecution witness)*

*'I wanted to be briefed by the prosecution about giving evidence' (victim witness)*

*'I had no information during a five hour wait. The prosecutor and others walked past in the waiting area but did not tell me about the reasons for the delay' (prosecution witness)*

*'I wanted to discuss the case with the CPS. The prosecutor found me in the tearoom and had a public word. It was too hit and miss and too rushed' (prosecution witness)*

*'I felt ill-prepared as a witness. I wanted more time with CPS' (victim witness)*

*'I've asked the prosecutor three times to have a word with me but he keeps ignoring me. I want to tell him he's got my name down wrong. Also there may be a conflict of interest because I work at housing and the defendant's name has now come up for investigation' (prosecution witness, youth court)*

*'I wished we could have had more time to talk to the CPS and make some comments. I kept worrying that he didn't understand certain things and wanted to check with him because we had never spoken with him before. It turned out he did know and understand' (prosecution witness).*

However, the desire for more information and explanations was shared by several defence witnesses:

*'It's all unknown. I've had no information or advice or been told who would be in court or what it's like' (defence witness)*

*'It would have been helpful if someone had told me what to expect' (defence witness)*

*'I wanted to be prepared for the witness box, shown the courtroom and told about court procedures and how to give evidence' (defence witness)*

*'I wanted to be better prepared by the defence solicitor' (defence witness)*

*‘The defence solicitor should have explained more about what was happening and not kept us waiting so long’ (defence witness)*

*‘It was a bit nerve wracking. It would have helped to have spoken to the defendant’s solicitor outside the courtroom so he could have explained what was going to happen. I wasn’t prepared at all’ (defence witness).*

Concerns about delay since the alleged offence and coping with cross-examination were often closely linked to fear of forgetting details. Both prosecution and defence witnesses spoke of being worried ‘about being caught out’ and having their words ‘twisted’ or ‘distorted’. Some wanted to see their statement:

*‘The incident was six months ago and my memory is hazy. I am worried about being tricked by the questions’ (prosecution witness, youth court)*

*‘It all happened two and a half years ago. The police read me my statement over the phone, but I want to see it’ (prosecution witness)*

*‘I am worried, it’s been a long time. I don’t want anyone to confuse me’ (victim witness).*

#### 4.6 Support from organisations

##### *Contact with a support organisation*

Thirty-one interviewees (11%) had been in contact with support organisations:

**Organisations with which interviewees had contact**

|   |    |
|---|----|
| <b>Witness Service</b>                  | 14 |
| <b>Victim Support</b>                   | 13 |
| <b>Both WS and VS</b>                   | 1  |
| <b>Domestic violence support groups</b> | 2  |
| <b>Not identified</b>                   | 1  |
| <b>Total</b>                            | 31 |

**Table 4.19**

It was unclear whether interviewees differentiated correctly between Victim Support and a magistrates’ court witness service. A total of 23 contacts with these organisations were reported at Court D, where there was a court-based service. Interviewees at Court B, the site of the other court-based witness service, reported five contacts, one of which was with a domestic violence support group. One interviewee at Court C reported a contact with Victim Support. Interviewees at Court E reported two contacts, one with a domestic violence support group and the other with Victim Support. No support group contacts were reported at Court A.

The only ‘supported’ defence witness was assisted by the Witness Service at Court D. Two youth court witnesses, both at Court D, had had contact with a support organisation. Interviewees’ experience of receiving support is summarised in the following table.

**Responses of interviewees who had been in contact with support organisations**

| Did you receive support? |                           | Name of court |   |    |   | Total |
|--------------------------|---------------------------|---------------|---|----|---|-------|
|                          |                           | B             | C | D  | E |       |
| No                       | Victim witness            | 2             | 1 |    |   | 3     |
|                          | <b>Total</b>              | 2             | 1 |    |   | 3     |
| Yes                      | Victim witness            | 2             |   | 8  | 2 | 12    |
|                          | Other prosecution witness | 1             |   | 10 |   | 11    |
|                          | Victim's friend/relative  |               |   | 3  |   | 3     |
|                          | Victim non-witness        |               |   | 1  |   | 1     |
|                          | Defence witness           |               |   | 1  |   | 1     |
|                          | <b>Total</b>              | 3             |   | 23 | 2 | 28    |

**Table 4.20**

The three interviewees who reported contact with a support organisation but who said they had not actually received support had been in contact with Victim Support.

*Quality of support*

All 25 interviewees who commented on the quality of the support they received described it as quite helpful or very helpful.

**Opinion of support provided by organisations**

| Opinion of support   |                           | Name of court |    |   | Total |
|----------------------|---------------------------|---------------|----|---|-------|
|                      |                           | B             | D  | E |       |
| <b>Quite helpful</b> | Victim witness            | 1             | 2  |   | 3     |
|                      | Other prosecution witness | 1             | 5  |   | 6     |
|                      | Victim's friend/relative  |               | 2  |   | 2     |
|                      | <b>Total</b>              | 2             | 9  |   | 11    |
| <b>Very helpful</b>  | Victim witness            | 1             | 4  | 2 | 7     |
|                      | Other prosecution witness |               | 4  |   | 4     |
|                      | Victim's friend/relative  |               | 1  |   | 1     |
|                      | Victim non-witness        |               | 1  |   | 1     |
|                      | Defence witness           |               | 1  |   | 1     |
|                      | <b>Total</b>              | 1             | 11 | 2 | 14    |

**Table 4.21**

One interviewee in the above table reported receiving 'very helpful' support from both Victim Support and the magistrates' court witness service.

Comments included the following:

*'Having a separate room and someone to talk to was very helpful'  
(prosecution witness)*

*‘Pleasantly surprised to find support at court’ (prosecution witness)*

*‘Witness support - having someone to sit with while waiting is very helpful and took my mind off worrying about the case’ (prosecution witness).*

#### *Adequacy of support as a preparation for giving evidence*

Of the 217 witnesses approached after their experience at court, 99 (46%) had actually been required to give evidence. Nineteen of these (19% of the 99) had received help from a support organisation and they were asked how well this had prepared them for the experience of giving evidence. Thirteen responded, of whom eight felt the support had prepared them very well and five quite well.

#### **4.7 What more could have been done**

Other follow-up questions were addressed to witnesses after court. A few responded before leaving the court building but most were contacted by phone within a few days. Whether or not they had given evidence, they were asked ‘what else could have been done to support you in your role as a witness, and by whom?’; 161 witnesses responded. Many of the comments were linked to the concerns discussed above which interviewees had expressed in response to previous questions and most of the issues raised related to the efficiency with which the process was managed.

#### *Comments not directed to a specific Criminal Justice System organisation*

##### **Improvements suggested by interviewees**

|   |     |
|---|-----|
| <b>fewer adjournments or ineffective court visits</b>   | 64  |
| <b>reduce waiting time on the day of trial</b>          | 31  |
| <b>better communication</b>                             | 17  |
| <b>more information about the court process</b>         | 16  |
| <b>reduce delay during the pre-trial period</b>         | 14  |
| <b>increase notice of being called to give evidence</b> | 8   |
| <b>provide someone to talk to</b>                       | 6   |
| <b>Total</b>  | 156 |

**Table 4.22**

Of the 64 concerned about adjournments and ineffective court visits, nearly all had experienced an adjournment on the latest trial date or on a previous occasion. A few mentioned multiple adjournments. Eight of these witnesses said that they were not required on the day of trial. Comments included the following:

*‘My mum made me get up really early saying I’d be fined if I was late. It’s not fair because you can sit and wait all day. I’ve to come back tomorrow’ (prosecution witness)*

*‘The first time the defendant did not turn up. She lives in a children’s home and the staff didn’t bother to bring her. The second time there was a bomb*

*scare. We had no information and just sat outside for three hours. Now it's been twelve months since the incident' (victim witness, youth court)*

*'We came at 10.30 am and were sat in front of the defendant. Then we were sent away to be back at noon. When we came back at 12, we were told 'probably another hour or maybe not at all'. We found out later that the defendant's solicitor hadn't turned up. The boys have had days off school and I've had days off work. The lawyer says it should have been scheduled much earlier because of the type of case it is' (parent of young witness in magistrates' court; the interviewer noted that one of the child witnesses was 'close to tears')*

*'The case has been adjourned but no-one has really told us what's going on' (prosecution witness)*

*'The victim decided not to testify because she was scared. The CPS said the police had left a message two days ago but I didn't get it' (prosecution witness, youth court)*

*'They told me when I arrived that I won't be needed. They had known that for a while but didn't tell me. I've been worried sick so I would have loved to have known that' (victim witness, youth court)*

*'We have no idea what happened or whether it's over or not. I tried to phone the police to find out if I've to go back but no-one can tell me. I hope they didn't dismiss it, I'll be really angry' (prosecution witness)*

*'This was a real cock up. It had been postponed the day before. Suddenly they called and said get your son out of school and come along here fast. To be honest, since the day we made the statement we haven't seen a soul. Fortunately, I work with people from Victim Support so I know some of the procedure. My son was more terrified of going to court than of seeing the defendants again. It is a dreadful system, I don't know if I could ever put him through all that again. The other victim backed out because of threats. I don't know the result and don't know how to find out' (parent of victim witness in youth court)*

*'This was a long wait for nothing as the defendant didn't turn up. It was clear the case was going to be adjourned but we had to wait for permission to leave three hours later' (victim witness, youth court).*

Of the 17 concerned about the quality of communication, many provided examples of the problems they had encountered:

*'This case has been adjourned once already. My wife and son need to come but they were not asked to attend today. I called the police twice and was told they were not needed. The CPS says she'd asked the police to warn them. She's given me a copy of a form<sup>26</sup> to give my son's employer instead of the*

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<sup>26</sup> List of Witnesses to Attend Court, form provided by the CPS to the police.

*official letter so that he can get off work and come to court tomorrow, but I don't think the form will be enough' (prosecution witness)*

*'We don't even know what the defendant has been charged with. The boys are meant to be on the video link<sup>27</sup> but now we've been told "no"' (parent of victim witnesses in the magistrates' court)*

*(speaking through a friend) 'I told them that I could not speak English so I was very disappointed to find no interpreter at court. I'm upset with the police, they wouldn't listen. The prosecutor said she didn't know and that she couldn't find one, so she's cancelled the case and said don't bother coming back' (prosecution witness)*

*'I walked to court today as I have no money. I was in hospital for four weeks as a result of this attack. When I got here today I found the case wasn't on. I don't understand' (victim witness)*

*'The prosecutor is now saying that she's asked for an adjournment because my daughter should be at court as a main witness, but no one told me that or sent her a letter' (victim witness)*

*'My witness warning was sent to the wrong address; that's why I was notified less than a week ago' (defence witness)*

*'I was just told to attend and given no information at all. I waited for two hours. They knew the police hadn't turned up but didn't bother telling us' (defence witness)*

*'We spoke to the contact person in the letter. We were under the impression that we just had to swear that we'd signed the statement. We then found out that we would have to testify' (victim witness)*

*'We looked for the defendant's name on the notice board to see which court to go to but there was a whole list of that surname and we didn't know which one he was' (victim witness in the youth court who initially waited in the magistrates' court)*

*'I wanted my dad to come into court with me and they said he couldn't.<sup>28</sup> I was terrified' (victim witness)*

*'Neither I nor my Victim Support worker knew today was the day of trial so I'd not visited the court before or discussed what was going to happen. There*

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<sup>27</sup> TV link facilities are available on application in the youth court and Crown Court but not in the magistrates' court.

<sup>28</sup> The father was also a witness and they had not been advised that he could not be in court with her before he had given evidence. This young woman was giving evidence at an old style committal and was also unaware that she might have to give evidence again at the Crown Court.

*was no separate area to wait. I was terrified, I should have been able to stand behind a screen. I felt like a criminal' (victim witness).*

Sixteen witnesses wanted more information about the court process:

*'It wasn't clear what we were meant to be doing. No-one tells you anything. It's terribly inefficient and takes forever' (prosecution witness)*

*'I would have liked to have seen the court layout. I was told to go to the witness box and felt silly that I didn't know where it was' (prosecution witness)*

*'I would have liked information on what to expect, some explanation of the trial process and preparation to give evidence' (prosecution witness)*

*'Someone should explain how the court works. I was unprepared for facing the defendant' (prosecution witness)*

*'I could have been told more on the day before going into court' (victim witness)*

*'I came away totally in the dark about what happened. One could say it's none of my business but could someone let witnesses know the outcomes or even let you know who you can phone to find out?' (prosecution witness).*

Six interviewees indicated a need for further support (none had previously been in touch with a support organisation):

*'No-one says: "Who are you?", "can we help?", "are you ok?". It's really bad' (victim witness)*

*'Nobody is helpful or supportive' (victim witness, youth court)*

*'It was a big thing for me. I am now head injured from the assault and really needed someone to talk to. I've been getting angry at the kids and not handling things too well' (victim witness)*

*'Someone should have told me that help was available from witness support' (prosecution witness)*

*'They could have given me a bit of support, I felt very nervous' (prosecution witness)*

*'Every victim should have some kind of escort, maybe get to come early or come in a different door or something. I feel so angry, my heart is thumping. You need someone to tell you what's happening' (victim witness).*

*Comments directed at the court relating to the physical environment*

**Suggested improvements in court facilities**

|  |    |
|--|----|
| <b>separation of prosecution and defence witnesses</b> | 38 |
| <b>better waiting conditions</b>                       | 10 |
| <b>provision of refreshment facilities</b>             | 7  |
| <b>warmer temperature</b>                              | 3  |
| <b>Total</b>   | 58 |

**Table 4.23**

The predominant concern about facilities concerned security and the desire to wait away from the defendant and the defendant's supporters:

*'When I arrived, the man at reception said "Turn right and go into that room". We walked in and the defendant was there. We had told the man at reception that we were the victim and witness' (victim witness)*

*'Imagine the criminal being able to sit in the same room with me! This is the second time this has happened, I thought he was in custody but he's right here. It's good I've got my friend with me' (victim witness)*

*'There's no privacy, it's nerve wracking. The defendant's sitting right there! I don't know if he's got friends outside' (victim witness)*

*'The usher came out and asked my name right in front of the defendant, that's not right. I don't want him to know it' (prosecution witness)*

*'It's worrying and making me feel like a criminal. He's standing out there in the hall, it's all glass. He should not be allowed beside us' (victim witness)*

*'I'm afraid of the defendant and just sitting here outside the courtroom but I've had no advice about what else to do' (victim witness)*

*'Is there enough security here if there is violence? I'm concerned - can our safety be guaranteed?' (victim witness, youth court)*

*'It's very intimidating. A Securicor van pulled up outside when I was on the steps outside with my daughter. A crowd of youths were on the pavement shouting to the defendants in the van. Later, the defendants were brought in shouting into the court building in full view' (mother of victim witness, youth court).*

Two defence witnesses at Court D complained that they were not allowed into the witness waiting room, which they were told was just for prosecution witnesses. Other comments about the facilities included problems with smokers (Court A), cold (Courts A and E), boredom and the lack of refreshment facilities (these complaints were mostly from Court C, where the cafeteria was downstairs, and Court E where the cafeteria was often closed on the days when the survey was conducted). Even where public refreshments were available,

several witnesses would have preferred to have a drinks machine and toilets available within a secure witness area.

*Comments directed at the prosecution or defence representatives*

| <b>Suggested improvements in service provided by parties' representatives</b> |    |
|---|----|
| <b>more information from the CPS</b>  | 16 |
| <b>more information from the defence solicitor</b>                            | 5  |
| <b>information about expenses</b>   | 4  |
| <b>Total</b>  | 25 |

**Table 4.24**

Quotes from these suggestions have been inserted into earlier sections.

*Sensitive personal treatment*

Eleven witnesses commended assistance they had received from individuals. Sometimes an otherwise bad experience was mitigated in part because of a positive interaction:

*'This place is awful because of the smoking. The police and the staff have been extremely supportive and the usher lady showed us round' (prosecution witness)*

*'This case was adjourned before and the staff were nice to us. We had to wait a few hours that time before we were sent away' (prosecution witness)*

*'This case was postponed from last month because we didn't receive the witness warning. Today we got a tour of the courtroom from the usher, which was helpful' (prosecution witness)*

*'I was upset by the whole court. It's another world, there's nothing warm, it's cold and calculating. Is it necessary to feel so isolated, like being a criminal? It's a stigma to go to court. The prosecutor was marvellous' (victim witness)*

*'The defendant didn't turn up. It took three hours to find that out. Anyway, the magistrates apologised for the delay' (prosecution witness)*

*'The prosecutor was late but did come out and tell us what was happening and the usher came out and took us in to show us where we would sit' (prosecution witness).*

#### **4.8 The views of observers: court personnel, lawyers, police, probation officers, social workers and representatives of support organisations**

Short interviews were conducted with a total of 52 people in the fieldwork courts who were familiar with witness concerns as a result of their role at court: eight court staff (clerks, ushers and security personnel), nine prosecutors, nine defence lawyers, eight police officers,

five probation officers, five social workers and eight representatives of support organisations (Victim Support, Witness Service, NACRO and a local group Action against Violence).

### *Perceptions of priority need*

When asked which features of witness care were most welcomed by witnesses, separate waiting areas were mentioned by 75 per cent of the 51 observer interviewees (emphasised equally by respondents in courts which routinely used separate facilities for prosecution witnesses and those in courts which did not):

*'Witnesses want separate prosecution and defence witness rooms, with their own drinks facilities, that do not open off the main foyer' (usher).*

A visible security presence was mentioned by 16 per cent. Other services, such as the supply of information in advance of the trial, availability of ushers to explain procedures and give a tour of the courtroom and the provision of a witness service, were each identified by approximately 12 per cent of observers. Refreshment facilities were mentioned by four per cent.

Twelve per cent of interviewees based in two of the fieldwork courts felt that nothing 'special' was done for witnesses:

*'We really don't have anything. Witnesses may wait in the police room, but they are treated like baggage really. It's the run of the mill cases that have the problem - the more serious cases often get some attention' (police officer)*

*'There are no special services here, though you could be lucky and get into a separate room' (usher)*

*'There are security officers but the service for witnesses is hit or miss. Nothing happens unless you kick up a fuss' (Victim Support)*

*'Although there's a police room, social work room, solicitors' room, CPS room, there is really no place for witnesses' (prosecutor).*

### *Vulnerable witnesses*

Awareness of special arrangements for vulnerable witnesses was uneven. Twenty-four per cent of observer interviewees were unaware of any special provisions; a few commented that this was 'no-one's responsibility' or was 'up to the police'. Because of space pressures, facilities for vulnerable witnesses tended to be rooms with another primary purpose e.g. court interview rooms, family court rooms, the staff's coffee making area and even "the Gaolers' area" were mentioned. The process by which arrangements for vulnerable witnesses was triggered was often unclear:

*'If they asked, we would put them in an interview room. If it was really bad then perhaps we'd put them in the police room' (court clerk)*

*'After the adjournment, the defendant and his girlfriend followed us to our car. There was no one we could ask for help' (Victim Support)*

*'It is hard to know how vulnerable witnesses get attention. It depends who is on the door whether they send prosecution witnesses into the main hall or into a private room' (social worker in the youth court)*

*'There are no specific facilities except in exceptional cases where Victim Support have been involved by the police. There is a separate witness room but there is nothing to stop defendants or defence witnesses entering it' (prosecutor)*

*'I'm very disappointed in the system, it's not victim-oriented at all unless by chance' (police officer)*

*'We had a young male witness here today who had been badly beaten and robbed. He had no one to come here with him. I was in court so he could have walked straight into the defendant. I'm running to attend to cases four at a time, it's terrible' (prosecutor).*

In both fieldwork courts with a witness service, volunteers were able to make special provision for vulnerable witnesses.

#### *Suggestions for improvement*

The interviewees were asked to suggest improvements to local witness arrangements. Three (all from one court) described existing arrangements as satisfactory and made no suggestions. The need for segregated prosecution and defence witness areas was mentioned by 30 per cent of the 52 respondents.<sup>29</sup> Several of these interviewees commented on poor use of existing space. For example, one interviewee pointed out a large 'press room' which was rarely used. Another felt that a disused courtroom could be used as a waiting area. A third observed:

*'About four years ago we did a fairly comprehensive study of our lack of services to witnesses. We managed to set aside a couple of witness rooms but these are not used because they are not close to courtrooms, some of which are upstairs' (court clerk).*

Other proposed improvements included the provision of a witness service (suggested by 22% of observer interviewees<sup>30</sup>). Two police officers commented on the pressure to maintain a distance from witnesses, in order to be seen to avoid contamination:

*'If Victim Support know the witness before trial then they can be accused of tampering so it is best if they do not meet before the day. There are specially trained witness service supporters trained just for the above' (police officer)*

*'I take the statement and do any follow-up to keep them informed but when it comes to court, we are cautioned not to be seen to communicate with the witness in case it is seen as coaching. It's crazy' (police officer).*

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<sup>29</sup> Most of these were interviewed at courts without separate facilities dedicated to the use of witnesses.

<sup>30</sup> Most of these were interviewed at courts with no witness service.

Other suggestions included ‘check-in’ facilities for witnesses and additional court staff available to help (14%) and more information provided in advance (14%). An increased role for the CPS in briefing witnesses was proposed by ten per cent of observers. However, some prosecutors found it extremely difficult to discharge their existing witness care responsibilities:

*‘It is very hard for the CPS to give due consideration to witnesses as trials are often double listed here, i.e. two per court. Someone who had the job of giving information to witnesses would be able to do this to a much higher standard’ (prosecutor)*

*‘The CPS support person for trial courts was cut long ago and is now in effect only for remand lists’ (prosecutor).*

Suggestions regarding administration included improved witness warning, so that witnesses did not have to make so many wasted journeys, and less use of ‘double-booking’ trials. A need was also seen for a more sensitive approach in the magistrates’ court and youth court, for example, not giving witnesses’ addresses out loud, telling them of the reasons for adjournments and thanking them for their attendance.

#### *The youth court*

Thirty observer interviewees had experience with the youth court. Most identified a need for greater attention to be paid to its vulnerable witnesses, particularly young witnesses. Space was seen as even more constrained. As in the magistrates’ court, there was felt to be a need for separate prosecution and defence waiting areas, an increased presence of security officers and more security cameras outside as well as within the building. There was widespread concern across the fieldwork courts about the potential for intimidation of witnesses in the youth court because of the large numbers of 17-year-old defendants.

*‘There needs to be a separate entrance for prosecution witnesses. They all have to pass through lots of people congregating on the stairs’ (social worker)*

*‘Often no arrangements are made and offenders and victims sit together in the general waiting area with no security present’ (prosecutor)*

*‘Facilities are not adequate here for prosecution and defence witnesses to be kept separate’ (social worker)*

*‘We need a separate entrance to avoid the intimidation of ‘bumping into’ the defendant or his mates’ (social worker)*

*‘Frequently witnesses wait with their assaulter at the youth court because there isn’t any witness room’ (police officer)*

*‘If an appropriate adult is with a young witness it is okay but some don’t even have an adult who cares at all. There are gang elements and intimidation in the youth court. Hopefully the police come with witnesses. I can’t take*

*responsibility for witnesses while I'm running about attending to three or four cases. I hardly have time for a 'hello' which is awful' (prosecutor)*

*'More violent offenders are on bail in the youth court and are mingling with witnesses. Over-listing often means overcrowding' (police officer)*

*'The geographical area served by this court is expanding and the caseload will double in volume. This is going to lead to more violence and intimidation in the youth court' (police officer).*

Suggestions for improvement were similar to those in the magistrates' court. However, the lack of special provisions for young witnesses, including information about court procedures, were a particular concern. One interviewee commented that there was a need for someone to 'have a duty' to look after young witnesses. They were often accompanied to court by a parent but the parent was not allowed to accompany the young witness while giving evidence (one interviewee commented that parents were sometimes more upset by the process than the young person).

The general view was that there was more intimidation in the youth court yet this was where support services were often minimal both before and at court. Several observers commented on the special characteristics required by supporters in the youth court. At one fieldwork court, some interviewees commented that many of the witness service volunteers were retired people to whom young witnesses did not relate easily. The volunteers themselves were also aware that this was a problem.

The 30 interviewees with youth court experience were asked about the use of screens, videotaped evidence in chief and TV link facilities. Only one fieldwork court had its own equipment; the others would have had to request the use of Crown Court facilities. Very few observers were aware of such facilities being used. Three (across different courts) had seen screens used, four had experience with videotaped evidence in chief and five knew of TV link facilities being used in youth court cases.

#### *Defence witnesses*

Nine observer interviewees were defence representatives (both solicitors and barristers). They felt that the information needs of defence witnesses did not differ markedly from those of the prosecution. While acknowledging that it was a defence solicitor's role to provide witnesses with information, overall, they acknowledged that defence witness needs were not being met. Some parents and families of defendants were uncomfortable at court and some defence witnesses were thought to be vulnerable but there was no network of support available. Facilities on offer to defence witnesses at the court were poorer:

*'We have no separate room for defence witnesses'*

*'Defence witnesses tend to be in corridors and the main concourse. There needs to be some separate area for them'*

*'Prosecution witnesses are given better facilities than those for the defence. There is an existing structure for prosecution witness care'*

*‘Some defence witnesses find the police presence intimidating, and some do not want to associate either with prosecution witnesses or the defendant’*

*‘Defence witnesses need separate waiting areas away from prosecution witnesses, and they need more information about the procedure of giving evidence e.g. where to stand, examination in chief and the roles of defence and prosecution counsel’.*

Some other observer interviewees also commented on the needs of defence witnesses:

*‘Defence witnesses say they feel like criminals sitting in the main hall’ (social worker)*

*‘There needs to be some help for defence witnesses’ (ushers).*

The probation officers who were interviewed as part of the court survey confirmed that they did not have specific responsibilities for witnesses or defendants’ families at court, although ‘as part of our general welfare function, if we came across a distressed witness, we wouldn’t ignore them’. Otherwise, they tended to have contact only when discharging a specific responsibility, for example if contact with the victim was ordered by the court as part of the pre-sentence report or reparation scheme.



## 5 EXISTING ARRANGEMENTS FOR WITNESS SUPPORT

### 5.1 Introduction

This chapter describes:

- Victim Support work with witnesses in magistrates' courts
- perceptions about the effectiveness of the CCWS
- NACRO help desk pilot schemes
- funding and management arrangements
- training
- other magistrates' court witness initiatives.

### 5.2 Victim Support work with witnesses in magistrates' courts

*'Victim Support in the Magistrates' Courts – Review of Services and Future Development Issues'*

This report was produced for its Council by Victim Support National Office in December 1996. It noted that from its inception, Victim Support had accompanied some victims to the magistrates' court. In 1994, a survey of 199 schemes indicated that all accompanied witnesses to court, 70 had the use of court accommodation (at least on request) and 59 had set up a system to receive advance notice of witnesses. Seven had secured funding from a local source.

Victim Support surveyed its 375 member schemes about services in magistrates' courts in September 1996. Forty-nine responded, from which it was concluded that about nine per cent of magistrates' courts receive a witness service from Victim Support. The findings included the following:

**Victim Support survey of services in magistrates' courts**

|  |    |
|--|----|
| <b>witness services based in magistrates' courts</b> | 49 |
| <b>number with designated office in the court</b>    | 32 |
| <b>number of coordinators</b>                        | 33 |
| <b>number of funded services</b>                     | 20 |
| <b>total number of funding sources</b>               | 8  |

**Table 5.1**

A direct comparison of 1994 and 1996 data is not possible as the same information was not collected. There was, however, an increase in separately funded schemes – from seven to 20. The picture was not one solely of expansion: in at least one court, Victim Support had to withdraw from a dedicated room in the court building because of the lack of resources.

The total number of court support schemes identified in the 1996 JUSTICE survey was higher: this reported that 27 per cent of magistrates' courts<sup>31</sup> had a witness support scheme. The highest proportions were the North Eastern (62%) and South Eastern (44%) circuit areas, and lowest in the Wales and Chester (11%) and Western (9%) circuit areas.<sup>32</sup> Victim Support was reported as staffing schemes at 61 courts out of 80, with 'witness support' and 'separate witness services' providing the balance.

#### *Telephone survey of Victim Support schemes*

On our behalf, the National Office selected a list of 20 of the 49 schemes which had identified themselves to Victim Support as providing support at magistrates' court. The selection included both funded and unfunded schemes. Telephone interviews were conducted with the coordinators of 14 of these schemes.

Four schemes accompanied to court only those victims required to give evidence with whom volunteers were already involved. This amounted to very few court visits per month:

*'We wish we had more court work to do. The problem is that so few of our clients ever see an offence proceed to court'*

Eleven schemes were actively involved at court, though not necessarily on a daily basis. Eight had use of a room at the magistrates' court although this was not necessarily regarded as a court 'base'. The standard of these facilities varied:

*'We have a very relaxing comfortable room now. We used to have a broom cupboard. Our room is free but we pay for everything else'*

*'The office is furnished and we pay nothing for the phone, photocopying and fax (in the county court next door)'*

*'A furnished room is provided but funding is still needed for a security lock on the door'*

*'We are not court based, however there is a comfortable room with a tannoy. It is for general use but we are given priority'*

*'We can use a small witness room and filing cabinet but it is also used by solicitors. There is no phone'*

*'We have a rather small room, almost a cupboard. We collect a phone from reception and plug it in. The bill is paid for by the court as is one parking place. We furnished the room, provide refreshments and pay for everything else'*

Not having a base at the court did not preclude schemes from offering an 'outreach' service. Of the seven Victim Support schemes about which the police provided information when issuing the prosecution witness warning, two were not court-based. However, even where

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<sup>31</sup> In fact, this figure was based on enquiries directed at PSDs, not individual courts.

<sup>32</sup> Seventy-one per cent of PSDs responded to the survey.

pre-trial visits were offered, most contacts were picked up at court on the day of trial. The schemes found it impossible to calculate the statistical effectiveness of advance notice procedures, as they did not know at any one time how many witness warnings were sent out by the police. A great deal of effort went into liaising with the court and CPS in estimating the number of volunteers required to staff the court on any given day. All schemes emphasised the importance of flexibility on the part of their volunteers. A better tailored approach was possible if the CPS provided lists of witnesses to attend court (LWACs) as had been locally negotiated by a few schemes.

The schemes were asked if they provided support to defence witnesses. The six without a court presence had, not surprisingly, never been put in this position. One coordinator commented:

*'We've never been asked to. We'd be upset if it happened. Because of equal opportunities we have to put it in the leaflet, so we'd have to do it'.*

Those actively involved in court work noted that defence witnesses rarely approached them, but where this happened, support would be offered:

*'We do whatever is needed. We would use a different room but offer the same supports'*

*'We have decided to do that in another room away from Victim Support. We're in the court supporting people anyway'*

*'We judge everyone independently. Obviously if they're not the victim then we'll take them away from our office. We might help with legal aid or a cup of tea'*

*'They will not be excluded. It's exactly the same service but away from prosecution witnesses'*

*'We get permission from defence solicitors first if a defence witness wants help. This isn't part of my remit but I do it. It isn't really suitable for Victim Support to do, because the perception of the victim is important'.*

Two coordinators pointed out that the signs on their door stated 'Prosecution Witnesses Only'. Nevertheless, one occasionally supported defence witnesses 'to allow them to talk through their feelings'.

#### *Meeting of Victim Support coordinators*

Victim Support National Office convened a meeting of 15 coordinators and scheme representatives in December 1996. The attendees covered the spectrum regarding work undertaken at the magistrates' court and also in terms of funding, from those which were unfunded to one scheme which had received a three year Lottery grant.

The coordinators described the sometimes chaotic and always unpredictable nature of magistrates' court work; not only did this require flexibility on the part of volunteers, but it also imposed additional administrative burdens on the coordinator which had significant time

implications. There was a need for coordinators to organise supervisory sessions to allow volunteers to ‘unload’, irrespective of the size of the court.

For those schemes which did not send volunteers to court on a daily basis, the quality of liaison with other criminal justice system agencies was vital. It was important to make an ongoing effort with the police and other agencies to raise awareness of the services offered.

Two of the schemes were actively involved in the youth court and noted that this created a demand for ‘in court’ support. A third had initially been refused access by the magistrates. Agreement had then been negotiated with the clerk that Victim Support volunteers would be treated as officers of the court and could come into court provided that the CPS was informed. Other schemes attended the youth court only on a case by case basis.

‘In court’ support to witnesses had implications for the staffing ratio of volunteers and was therefore done in only a small number of cases. Once a volunteer had accompanied a witness into court, that volunteer could not support another witness in the same case. It was felt that magistrates’ courts were sometimes more relaxed about these matters than the Crown Court, but that it was important for the volunteers to observe appropriate boundaries at all times.

The schemes had occasional experience with defence witnesses. These also put pressure on volunteer numbers, because both the defence witness and volunteer needed to be kept away from supported prosecution witnesses in the same trial. There was a discussion as to whether schemes could offer support to high street firm security officers or even police officers. One coordinator accepted these self-referrals but others did not have the resources to do so. There was some reluctance to have police officers in the witness room, in part because of the tendency of some officers to discuss the case in front of other witnesses.

None of the coordinators had experienced difficulties in recruiting and thought that the drop out rate was lower than in Victim Support community work. Most agreed that it was necessary to recruit a separate group of volunteers for court work and not simply to use volunteers from the community scheme. Several shared a pool of volunteers between the magistrates’ court and the Crown Court though there was some concern about a potential conflict of loyalties. There was also diversity of opinion as to whether volunteers for both tiers of court should train together. One scheme trained its volunteers for both courts; they were assigned to one court and spent one month in three at the other.

There was no standard approach to training volunteers to work in magistrates’ courts although individual schemes had adapted the CCWS training package for this purpose. The need for a specific magistrates’ court training package was widely acknowledged; one coordinator described the use of the CCWS training package as ‘dangerous’. Training needed to be accounted for separately: the Victim Support national training budget had not been costed to include magistrates’ court work. The involvement of other criminal justice organisations in training was considered essential.

There was increasing pressure to increase the number of court schemes. One coordinator noted that her scheme was one of four locally. The other three were much less active but the local courts were now pressing for an equivalent service county-wide. There was no consensus about the shape of how service contracts might be constructed in future because of the possibility that some local schemes would be asked to give up control to others. As one

coordinator put it, 'the schemes are very territorial and do not want to lose what they have already'.

If the pressure to expand existing services was indicative, there was a high level of satisfaction among criminal justice system agencies with the services provided by Victim Support. The numbers of witnesses assisted by individual schemes almost invariably exceeded initial target figures. Several schemes felt that the introduction of a court service had resulted in a demonstrable decline in the number of witnesses who failed to attend court. No concerns had been raised concerning contamination of evidence by volunteers. However, there was, as yet, no evaluation of Victim Support's court work: because of its experimental status within the organisation, it was not covered by field reviews.

### **5.3 Single Regeneration Budget, crime prevention and community safety programmes**

#### *Salford Witness Support Service*

This service, run by a paid coordinator and 25 volunteers, was operated under the auspices of 'the Salford Partnership' consisting of the local authority, police, probation, the magistrates' court, Victim Support, the Citizens' Advice Bureau and the University of Salford.

The scheme leaflet explained that it 'exists to support witnesses called by the prosecution to attend Salford Magistrates' Court'. Three volunteers a day attended court, staffed the witness lounge and were available to accompany witnesses into court. The coordinator said that the volunteers could assist defence witnesses but such requests were rare. Youth court witnesses received information about the scheme but the support service did not keep separate figures about the number assisted. Liaison with witnesses continued if they attended the Crown Court but information on the day and support in the courtroom was provided by the Crown Court Witness Service.

The Salford leaflet also offered services on request to witnesses in the family court and county court. For example, where the local authority was considering eviction orders and harassment of possible witnesses was an issue, the scheme worked with the local authority solicitor to explain to such witnesses what support was available at court. The scheme was recently approached with a request to extend its services to the coroners' court.

In an effort to counter early witness intimidation, the Salford service had introduced a new layer to its referral procedure. In a pilot project set up in September 1996, within three weeks of giving a statement all prosecution witnesses were sent information about the scheme and invited to make contact if they had any concerns. The local authority funded 20 home link alarms and the scheme coordinator worked with the police to identify priorities for their receipt. It was the coordinator's experience that prospective witnesses were often reluctant to call the police directly about intimidation. When witnesses were warned to attend court, the scheme's leaflet was enclosed again.

Under the TIG local service level agreement, witnesses at reception will be directed to the service on arrival at court, but this had not yet been introduced at the time of our enquiry.

#### *Safe in Teesside*

Like the Salford service, the Teesside initiative was a crime prevention and community safety programme funded by the Single Regeneration Budget. At the time of this study, Safe in Teesside was at the end of its first year and had received approximately 500 referrals, although it was unclear how many of these were witnesses in cases which proceeded through the court process.

The programme provided two witness support workers covering the whole of Teesside, based in police stations and working closely with the police and witness warning clerks (police employees) to identify reluctant or intimidated witnesses at an early stage, prior to the case going to court. The witness support workers went to such witnesses' homes and were involved in support and liaison through the trial as well as after court proceedings, when the scheme director noted that participants often became more fearful. The workers were also involved in strategic work to assist criminal justice agencies in planning a more effective response to vulnerable witnesses. The service covered witnesses attending Hartlepool, Middlesbrough and Guisborough Magistrates' Courts. Witnesses attending the Crown Court were supported before and after proceedings but were handed over to the Witness Service on the day of trial. The programme Director said that like the Salford scheme, Safe in Teesside was willing to support witnesses in the county court, but as yet this had not been requested.

#### **5.4 Funding of magistrates' court witness services**

A number of Victim Support schemes received funding from 'Safer Cities' which was originally a Home Office initiative. The Salford Partnership and Safe in Teesside received funding from Safer Cities' successor, the Single Regeneration Budget (SRB), administered by the Department of the Environment. SRB funds have been awarded through a programme of regional competitive tenders managed by NACRO, SOVA and Crime Concern. The Salford Partnership received funding from SRB for the period 1995 to 2000 totalling £147,000. Safe in Teesside received £300,000 for a five year period. Under a further SRB grant starting in April 1997, Safe in Teesside in partnership with the Crown Court Witness Service will be given £76,500 over a five year period, to be matched by a similar sum from a combination of local organisations. The Witness Service had taken the lead in putting together this matching sum in money and services. The objective of the grant was to set up and staff witness rooms in the three magistrates' courts, run by a paid coordinator (30 hours a week) and volunteers. The service will be for prosecution witnesses only.

The terms of reference for SRB applications were broader than the original Safer Cities awards, and it appeared that conventional court-based witness service schemes would not qualify for SRB funds in the future. Nor were there any plans for a further round of Safer Cities funding. Magistrates' court schemes which had received Safer Cities funding which was about to expire were seeking alternative sources.

Only four of the 14 Victim Support schemes in our telephone survey received external funding earmarked for court work. For one of the four, the amount involved was £100 provided by the court. The remaining courts met the costs out of their general reserves (this also included local fundraising, which raised £16,000 for one scheme). One unfunded scheme was charged £1,000 a year for a room at the court which was paid for by the probation service.

For those with funded schemes, typical budget headings included salary and National Insurance (including locum cover), telephone, staff travel, staff training, stationery, postage, conferences, volunteer expenses, volunteer training, sundries, supervision and County administration and professional fees.

One of the fieldwork courts which already had a funded court-based scheme, secured the services of a full-time coordinator seconded from Barclays Bank for two years as part of the Business in the Community scheme. This 'contribution in kind', combined with a £2,500 donation from the local Rotary, permitted the witness service to extend 'on call' services (i.e. witnesses requesting in advance the presence of a volunteer at court) to another court location.

Table 5.2 draws on information provided in Victim Support's December 1996 report, augmented by data on estimated annual costs from schemes attending the December meeting at the National Office. The table lists all 49 Victim Support schemes that reported to the National Office that they provided a court-based service in the magistrates' courts. The Victim Support data related only to the workload of court-based services and did not include people supported by schemes accompanying victims already known to them on the day of trial.

There are some anomalies in the data:

- there are a number of gaps
- there is inconsistency as to whether or not a scheme is designated as 'funded'. A scheme that receives money only from fund-raising or donations may be designated in either way. One scheme that receives money from the county and from fund-raising is recorded as 'unfunded'
- some schemes are designated as 'unfunded' even though they have a paid coordinator
- some schemes running many volunteers are listed as having no coordinator
- the totals in the final row accurately reflect the data but disagree in two instances with the totals provided by Victim Support which records 20 funded schemes as against 23, and 32 coordinators instead of 36.

### Victim Support Magistrates' Court Survey September 1996

| Scheme name                      | Worker | Paid | Funded | Funding Source                | No. of vols | Rooms | Office | No. supported | Estimated annual cost                           |
|----------------------------------|--------|------|--------|-------------------------------|-------------|-------|--------|---------------|---|
| North & East Avon VSS            | 1      | 0    | 1      | Gtr Bristol Foundation        | -           | -     | -      | -             | -   |
| Newbury VSS                      | 1      | 0    | 1      | Probation                     | 10          | 3     | 1      | 3             | -   |
| Milton Keynes VSS                | 1      | 1    | 1      | Lottery & Council             | 6           | 5     | 1      | 36            | -   |
| Easington & District VSS         | 1      | 1    | 1      | Safer Cities                  | 3           | 6     | 1      | 35            | -   |
| Victim Support Bury Metro        | 0      | -    | 1      | Local Authority               | 13          | 5     | 1      | 22            | -   |
| Victim Support Metro Rochdale    | 1      | 0    | 1      | Donations/Fundraising         | 10          | 4     | 1      | 59            | -   |
| Victim Support Swale             | 1      | 0    | 1      | Swale BC                      | 6           | 4     | 0      | 5             | -   |
| Burnley CC Witness Service       | 1      | 0    | 1      | Safer Cities/TSB              | -           | 3     | 0      | 4             | -   |
| Bootle VSS                       | 1      | 1    | 1      | National Lotteries<br>Charity | 33          | 5     | 1      | -             | yr 1: £18,000<br>yr 2: £11,000<br>yr 3: £11,000 |
| Rhondda VSS                      | 1      | 0    | 1      | Development Grant             | 5           | 3     | 1      | 39            | -   |
| Northamptonshire VSS             | 1      | 1    | 1      | MCC                           | 12          | 6     | 1      | 53            | £11,000   |
| Newcastle Witness Support Scheme | 1      | 1    | 1      | MCC                           | 55          | 10    | 1      | 150           | £20,000   |
| Vale of Glamorgan VSS            | 0      | -    | 1      | Vale of Glam.<br>C.Council    | 3           | 3     | 1      | 15            | -   |
| Mid-Warwickshire VSS             | 1      | 1    | 1      | F/raising,<br>Grants/Trusts   | 9           | 3     | 0      | 30            | £8,000+   |
| Victim Support Rugby             | 1      | -    | 1      | Rugby BC/Tudor trust          | 5           | 3     | 1      | -             | -   |
| Coventry VSS                     | 1      | 1    | 1      | Private Donation              | 2           | 6     | 1      | 52            | £10,000   |
| Walsall VSS                      | 1      | 1    | 1      | Local Auth/MCC                | 14          | 9     | 1      | 90            | £4,000+   |
| Barnsley & District VSS          | 1      | 1    | 1      | S.Y. Police Authority         | 11          | 5     | 1      | 69            | -   |
| Leeds CC Witness Service         | 1      | 1    | 1      | Local CJAs                    | 31          | 15    | 1      | 115           | £10,000   |

### Victim Support Magistrates' Court Survey September 1996

| Scheme name                       | Worker | Paid | Funded | Funding Source               | No. of vols | Rooms | Office | No. supported | Estimated annual cost          |
|-----------------------------------|--------|------|--------|------------------------------|-------------|-------|--------|---------------|--------------------------------|
| York CC Witness Service           | 1      | 1    | 1      | York City Council            | 8           | 5     | 1      | 39            | yr 1: £14,103<br>yr 2: £12,558 |
| Doncaster VSS                     | 1      | 1    | 1      | S.Yorks<br>Pol/SSD/Donations | 16          | 8     | 1      | 115           | £16,800                        |
| Rotherham VSS                     | 1      | 1    | 1      | S. Yorks Police              | -           | 10    | 1      | -             | -                              |
| Victim Support Sheffield          | 1      | 1    | 1      | S. Yorks Police              | 21          | 16    | 1      | 140           | £9,000+                        |
| Bath District VSS                 | 1      | 0    | 0      | -                            | 7           | 5     | 0      | 6             | -                              |
| Cambridge VSS                     | 0      | -    | 0      | -                            | 5           | 3     | 0      | 2             | -                              |
| Peterborough CC WS                | 1      | 1    | 0      | -                            | 8           | 4     | 0      | -             | -                              |
| Chester-le-Street & District VSS  | 1      | 0    | 0      | -                            | 3           | 3     | 1      | -             | -                              |
| Derwentside VSS                   | 1      | 0    | 0      | Applying CPS, MCC            | 5           | 3     | -      | 7             | -                              |
| Durham VSS                        | 0      | -    | 0      | -                            | 4           | 3     | 0      | 22            | -                              |
| Cheltenham VSS                    | 0      | -    | 0      | Donations/Fundraising        | 6           | 4     | 0      | 12            | -                              |
| Victim Support Central Manchester | 1      | 1    | 0      | -                            | 16          | 23    | 1      | 108           | £9,500                         |
| Oldham VSS                        | 0      | -    | 0      | -                            | 6           | 6     | 0      | 37            | -                              |
| Stockport VSS                     | 1      | 1    | 0      | Fundraising                  | 14          | 4     | 1      | 52            | -                              |
| Dover District VSS                | 1      | 0    | 0      | Fundraising                  | 8           | 5     | 1      | 6             | -                              |
| Maidstone VSS                     | 0      | -    | 0      | -                            | 16          | 6     | 1      | 14            | -                              |
| Medway Towns VSS                  | 1      | 0    | 0      | -                            | 6           | 6     | 0      | 6             | -                              |
| Victim Support West Kent          | 0      | -    | 0      | Donations                    | 15          | 6     | 0      | -             | -                              |
| Chorley & District VSS            | 0      | -    | 0      | Fundraising                  | 5           | 3     | 1      | 31            | -                              |
| Leicester CC Witness Service      | 1      | 0    | 0      | Donations                    | 8           | 8     | 1      | 64            | -                              |
| Loughborough & District VSS       | 1      | 0    | 0      | -                            | 6           | 4     | 0      | 24            | -                              |
| Brentford & Chiswick VSS          | 1      | 0    | 0      | -                            | 8           | -     | 0      | 3             | -                              |

### Victim Support Magistrates' Court Survey September 1996

| Scheme name                    | Worker    | Paid      | Funded    | Funding Source             | No. of vols | Rooms      | Office    | No. supported | Estimated annual cost |
|--------------------------------|-----------|-----------|-----------|----------------------------|-------------|------------|-----------|---------------|-----------------------|
| Hounslow & Feltham VSS         | 0         | -         | 0         | -                          | -           | -          | 0         | 3             | -                     |
| Spelthorne VSS                 | 1         | 1         | 0         | -                          | 1           | 4          | 1         | 2             | -                     |
| Huyton VSS                     | 1         | 0         | 0         | -                          | 7           | 2          | 1         | 27            | -                     |
| Bridgend VSS                   | 1         | 1         | 0         | -                          | 7           | 5          | 1         | 74            | -                     |
| Taff-Ely VSS                   | 1         | 0         | 0         | -                          | 2           | 3          | 1         | 77            | -                     |
| Norwich & District VSS         | 0         | -         | 0         | -                          | 6           | 6          | 1         | 22            | -                     |
| Victim Support Nottinghamshire | 0         | -         | 0         | County funds & fundraising | 38          | 32         | 1         | 94            | -                     |
| Harrogate & District VS        | 0         | -         | 0         | Fundraising                | 16          | -          | 0         | 23            | -                     |
| <b>Total</b>                   | <b>36</b> | <b>19</b> | <b>23</b> |                            | <b>496</b>  | <b>285</b> | <b>32</b> | <b>1787</b>   |                       |

**Table 5.2**

**Worker:** '1' denotes that the scheme has a full-time or part-time coordinator. '0' denotes that there is no coordinator.

**Paid:** For schemes with a coordinator, '1' denotes that the coordinator is paid and '0' that the coordinator is unpaid.

**Funded:** '1' means that the scheme receives funding and '0' means it is unfunded.

**No. of vols:** This records the number of volunteers either based in the court or designated for this kind of work.

**Rooms:** Denotes the number of relevant courts sitting.

**Office:** Denotes the number of rooms permanently set aside for the use of Victim Support.

**Number supported:** Denotes the numbers of victims/witnesses supported during the calendar month of August 1996.

**Estimated annual cost:** Figures are given for four courts. These are not part of the Victim Support data set but were obtained during discussions with Victim Support personnel or court staff at the courts in question.

## 5.5 Crown Court Witness Service

This study was asked to consider what lessons could be drawn from the experience of the Crown Court Witness Service. There had been little research on the Service since Raine and Smith's study evaluating the seven pilots was produced in 1991,<sup>33</sup> although research was conducted in 1996 which examined support for child witnesses at the Crown Court.<sup>34</sup> Raine's evaluation found a close correlation between the perceived needs for support and the service actually received. While not the only agency potentially able to provide a court based support service for victims and witnesses, Victim Support was regarded as the most obvious body to take on the responsibility, 'having established general credibility both at national and local level within the criminal justice system'.

The evaluation report concluded that possibly the Service's most significant achievement was to demonstrate that:

*'by careful planning and management, by thorough training, and above all, by sheer dedication to the task, it is possible for a voluntary organisation not just to 'break in' but also to become accepted within the otherwise largely professional world of the court and to provide there a supporting service to individuals and groups whose rights and expectations have for far too long been overlooked'.*<sup>35</sup>

The demand for witness services in magistrates' courts is due in large part to the success of the CCWS.

Most executive interviewees warned that there were few parallels between support work in the Crown Court and in magistrates' courts. However, one finding of the Witness Service pilot evaluation struck a chord with those forecasting the volume of support work in magistrates' courts. Raine's report described decisions as to the size of the volunteer force initially required at each centre as:

*'inevitably somewhat arbitrary. The initial size of the teams bore little relationship to the size of the court workloads. More surprising, perhaps, was the fact that over the subsequent 18 months, the changes made in the number of volunteers at each project did little to increase the correlation with the volume of business at the courts'.*<sup>36</sup>

### *Views of Crown Court staff on the CCWS*

Managers in ten Crown Court centres were contacted and asked about how well the CCWS was working in their area. Seven of the ten praised unreservedly the service being offered. These seven stressed that the work performed by coordinators and volunteers reduced the pressure on overloaded court staff and freed them up to attend to other tasks.

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<sup>33</sup> John Raine and Rena Smith, *The victim/ witness in court project*, University of Birmingham, p. 58.

<sup>34</sup> Joyce Plotnikoff and Richard Woolfson, *Children in Court*, Victim Support.

<sup>35</sup> John Raine and Rena Smith, p. 53.

<sup>36</sup> John Raine and Rena Smith, p. 18.

Of the three managers whose response was more qualified, two felt the service was operating reasonably well while the third had encountered serious problems. These included:

- concerns over inappropriate remarks addressed to witnesses by volunteers
- witnesses who had completed their evidence being allowed to return to the witness room and speak to other witnesses
- difficulties experienced by ushers trying to find witnesses who had been assigned to the care of the CCWS
- lack of a written definition of the role of the CCWS specifying the scope and boundaries of the service
- volunteers demonstrating a lack of understanding of the workings of the legal system due to lack of involvement of Court Service personnel in training delivery
- communication difficulties due to the police referring witnesses directly to the CCWS without informing the court and providing insufficient information regarding witnesses' vulnerability and needs.

Some of these themes were reflected in the comments of the other two managers who had encountered difficulties. One talked of volunteers confusing the court with the CPS and requesting court staff to provide inappropriate information, such as the nature of the offences with which the defendant was charged. This manager was also concerned that the Witness Service at her court was unwilling to set up a help desk in the foyer of the court to meet witnesses as they entered the building. Instead, court staff were expected to identify witnesses and direct them to the accommodation used by the CCWS.

Although many of the courts reported that there had been some initial problems regarding the boundary between the responsibilities of court staff and Witness Service personnel, most had now successfully resolved these and achieved a happy working relationship. The key to this success was clearly the quality of the communication between the Court Service manager and the Witness Service coordinator. One manager, who was also the court's child witness officer, complained that the Witness Service did not involve her in children's pre-court visits and she felt that she had lost control of the situation.

There was variation in the extent to which assistance from volunteers was available to defence as well as prosecution witnesses. Three managers said that the Witness Service in their courts made a point of stressing that their services were available to both sides. Four said that assistance would be provided to defence witnesses if asked but the Witness Service did not advertise their services to defence witnesses. These managers felt that defence witnesses were much less likely to need assistance than those called by the prosecution. Of the remaining three managers, one said the Witness Service did not and could not help defence witnesses, one said the CCWS was not willing to help defence witnesses and one did not know whether or not services were provided to both sides.

Managers were asked about what factors were key to the success of a court-based witness service. Most stressed the importance of having segregated waiting areas for witnesses and that there should also be the potential to cater for special needs, for instance children and non-smokers. Clear boundaries distinguishing the roles of volunteers and court staff were vital and these should be in writing. Court service staff should have a direct input to the training of volunteers both to inform and to promote a sense of partnership.

### *Use of Crown Court TV link facilities by the youth court*

Of the ten Crown Court centres contacted, six had provided their TV link facilities for the use of the youth court in the past year. The level of demand was low with at most three or four requests a year. Two of the four courts who had no requests thought that local magistrates' courts had their own facilities.<sup>37</sup>

## **5.6 NACRO court-based projects**

The Home Office probation division had provided NACRO with three years' funding to set up help desks as pilot projects in a small number of magistrates' courts.<sup>38</sup> The help desks were usually sited in a prominent place in the court building. Initially, most desks were open from 9 am to 5 pm but were moving towards reducing opening hours to 'core' times, for example 10 am to 3 pm.<sup>39</sup> The desks were staffed by a paid coordinator and most had recruited and trained volunteer helpers to assist with the day-to-day running of the desk. They displayed a wide range of leaflets and advice sheets to which people could help themselves. One of the fieldwork courts, Court E, had a help desk set up in September 1995 with a target of 300 referrals annually. In fact, up to June 1996 it had received 626 general enquiries and 883 referrals.

The help desk projects had been managed within the NACRO regional structure but operated independently of one another. Each had a local steering committee.<sup>40</sup> In 1996, a development officer was appointed to coordinate the projects and lessen the isolation felt by coordinators. She reported that the initiative began because of the cut in the probation service's ability to undertake welfare work at court. The pilot sites were chosen at relatively short notice and a few of the courts proved to be not very supportive. NACRO had concluded that some busier magistrates' courts should have been targeted, and more discussion should have been held with the court, probation and the court user group in order to ensure that a demand for the service existed.

The initial aim of the projects was to divert lower tariff offenders from more serious offending behaviour, combined with the provision of information to all categories of people coming to the magistrates' court. A NACRO leaflet states that the help desks aim to:

*'help the courts to operate efficiently and well by offering free information and practical assistance to anyone attending court, in whatever capacity. By increasing understanding of the court process, helping with immediate*

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<sup>37</sup> The LCD advised that only five or six magistrates' courts have their own CCTV equipment.

<sup>38</sup> Camberwell Green, Halton, Ipswich, Norwich, Portsmouth, Runcorn, Southampton, Southend, Teesside, Thames and Warrington. A help desk in Colchester closed in 1996 because of under use. New help desks were started on a part-time basis in Crawley and Lowestoft.

<sup>39</sup> Outside of these hours, coordinators might carry out visits to agencies to which clients have been referred.

<sup>40</sup> The membership generally consisted of the NACRO manager and coordinator together with the clerk to the justices, the chair of the bench and a senior probation officer from the court team or their representatives. The Citizens' Advice Bureaux and social services departments are also represented on some steering committees.

*practical problems and getting expert help for the more complex ones, the desks help to smooth the court process and promote the quality of justice’.*<sup>41</sup>

The help desks responded to requests for general information and directions within the court building (at Court E, the help desk was located on the court floor, not at the entrance). The NACRO leaflet comments that:

*‘Although no special expertise is needed to answer such queries, prompt and helpful answers enable the courts to provide a good service to the public and help give a good initial impression, particularly to those who have never attended court before’.*

The second type of enquiry required a more specialist response from the coordinator, linking those attending court with specialist advice and help available in the community (the development officer emphasised that the help desks gave only basic advice and principally acted as a referral agency):

*‘Some involve queries about specific cases and may entail referrals to the duty solicitor or liaison with other professionals in the court. Many involve matters of money advice and management particularly in relation to the payment of fines. The desks deal with many individuals who are in default with fine payments... Advice about welfare benefits more generally forms a substantial part of the workload of the help desks’.*

Under the heading ‘Do they give value for money?’ the NACRO leaflet gives examples of savings to the criminal justice system where advice to fine defaulters has resulted in a significant decrease in custodial sentences. All but one of the case studies cited relate to defendants. The exception concerned a case in which a CCWS coordinator asked the NACRO coordinator to help with arrangements at the magistrates’ court for two 12-year-old witnesses. The boys received a pre-trial tour of the courtroom and an explanation of procedures. On the day of trial they used a rear entrance to the building and screens were erected in court:

*‘The help desk coordinator also arranged for the Chief Prosecutor to speak to the boys privately before they gave their evidence to discuss their statements. Without the help desk coordinator’s assistance, the two boys would have been treated as adult witnesses and therefore would have had to face the defendant’.*

Home Office funding criteria have meant that NACRO help desks are not located in the youth court, although a small number of youth court clients have been dealt with nationally. A few of the help desks have done work with people attending family courts.

Some NACRO coordinators had personal experience of Victim Support work. One had received volunteer training from the local scheme and the NACRO coordinator at Court E had been a Victim Support volunteer. However, only three per cent of the help desk’s clients at this court were victim/witnesses: 88 per cent were defendants, and nine per cent fell into the category of ‘family and friends’. During the process of identifying fieldwork courts, the

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<sup>41</sup> ‘Helping the Courts to Serve the Public’.

coordinator of a help desk at a magistrates' court in the North West was contacted by telephone. She reported that, although willing to help anyone, this help desk also had a low number of contacts with witnesses. (Neither this court nor Court E had a court based witness service.)

Across all the help desks only three per cent of contacts were with victim/witnesses. The range was from zero to eight per cent.<sup>42</sup>

The subject matter of enquiries to the help desk at Court E was as follows:

**Subject of enquiries to the NACRO help desk at Court E**

|                               |      |
|-------------------------------|------|
| <b>basic court procedures</b> | 39%  |
| <b>debt</b>                   | 13%  |
| <b>housing</b>                | 11%  |
| <b>custody</b>                | 11%  |
| <b>welfare benefits</b>       | 9%   |
| <b>drugs/alcohol</b>          | 8%   |
| <b>finances</b>               | 7%   |
| <b>mental health</b>          | 2%   |
| <b>employment/training</b>    | 1%   |
| <b>Total</b>                  | 100% |

**Table 5.3**

Questions relating to court procedures were the most common kind of enquiry for all help desks. The national average for this category of work was also 39 per cent.<sup>43</sup>

The development officer estimated the original cost of each help desk as £30,000 and thereafter at £22,000 to £24,000 per annum after the Home Office withdrew £5,000 funding per desk. NACRO provided an expenditure progress report for court based welfare services covering actual expenditure during the period April to July 1996 which totalled £84,661. This included £48,338 for salaries.

The Home Office underwrote the funding for a period of three years. At the time of the study this period was running out and NACRO was looking for local funding to continue providing the help desk service. There was an increased emphasis on the use of volunteers to save costs. It was NACRO's position that possible sources of funding were MCCs and the probation service. Probation could allocate five per cent of its funding to partnership projects, though these were not confined to NACRO. Only one help desk was part-funded by probation. A NACRO report on the help desks for the six month period ending 1 August 1996 noted that:

*'All of the desks are now well established and nearly all meet the minimum targets. Alternative funding is being sought. Ways of expanding the level of service are being explored. These include working with special client groups*

<sup>42</sup> Statistics for the three-month period ending 31.10.96 compiled by the development officer for the Home Office.

<sup>43</sup> *Op. Cit.*

*such as council tax or fine defaulters. It is hoped that by offering a more defined service to certain types of court users, this will make the projects more attractive to potential funders’.*

The LCD, with its interest in the efficient enforcement of financial penalties, had a ‘watching brief’ in relation to the operation of the help desks. The LCD noted the potential overlap with a witness service role in directing people coming into the court building and providing information about basic court procedures. It concluded there was a need to examine the boundaries of both types of service. The development officer acknowledged that there were no written agreements between NACRO and the host courts and that, while flexibility of approach was important, boundary issues needed to be resolved.

## **5.7 The use of technology**

There is a growing acceptance that technology has a significant role to play in making the legal system more accessible to the general public. The use of interactive computer screens to convey information is already familiar to most people because of ‘hole-in-the-wall’ cash machines. The generic term for such facilities is ‘kiosk technology’ and a magistrates’ court example was reported in ‘Legal Action’ in February 1997. South East Northumberland Magistrates’ Court in Bedlington had commissioned an interactive video providing ‘a personal guide to defendants, victims and witnesses’,<sup>44</sup> although much of the detail provided (for example, about pleas) is targeted specifically at defendants. An interactive video of a sample court case is initiated by the viewer touching the screen. During pauses in the playing of the video, the viewer can use the touch screen capability to replay the previous screen, request more information in the form of written guidance displayed on the screen or continue with the next part of the dramatised case. The video, which was filmed at the court, lasts a total of 15 minutes and cost £25,000 to produce and install. Court users have been given information about the video on arrival and has been advertised through the local victim support scheme, the probation service and solicitors’ offices. It also formed part of the induction programme for new magistrates and in the training of probationary constables. The video’s ability to reflect local circumstances and the local community was seen as a major advantage.

Nottingham Magistrates’ Court, a new building containing 18 courts, had installed four electronic bulletin boards in the foyer. Three were split alphabetically to list defendants and courtrooms. This information could be updated during the day to show if a block of cases was moved from one courtroom to another. The boards did not, however, show the order of business e.g. which case is ‘the next one up’ in a particular courtroom. The fourth board was generally used to give directions and other information such as the location of the duty solicitor. Court ushers on the reception desk found the system made their task easier and when the system was out of use for servicing, the return to paper lists was described as ‘chaotic’. The hardware cost £57,300; the development cost of the software was £13,000 (though presumably this would be lower if adopted elsewhere) and the installation cost £5,500.

In its waiting area, Liverpool Magistrates’ Court has a large TV screen showing Sky News and an electronic message board used to give information about court facilities rather than to

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<sup>44</sup> ‘A glimpse of the future’ p. 8.

display case lists. This system cost approximately £8,000. Redbridge Magistrates' Court also has a digital notice board in the foyer which is used to provide information about facilities and which cost approximately £1,000 and £40 per year in maintenance. On the day it was installed, the court initiated a 'duty usher' scheme and it was therefore difficult to isolate the impact on court users of the electronic system.

Use was also being made of videos. Newham Magistrates' Court has commissioned a video showing on four screens in public areas (though not in the waiting room for vulnerable witnesses). The tape combined local information, details about the court, its services and what happens in court, as well as entertainment elements such as the Red Arrows flying team. The system has a title generator which allowed the court to put its own messages on the screen at the same time. This video installation cost approximately £15,000 plus about £200 per year maintenance. Calderdale's magistrates' court video was filmed on the premises and surrounding area and is targeted at witnesses, demonstrating through dramatisation what happens at court. The aim is for the video to be seen by witnesses before coming to court. It was available through the CPS and Victim Support without charge and to other organisations at a nominal price of £2.50. Copies had been offered to local schools and libraries. This video cost £10,000.



## 6 TOWARDS A BETTER SERVICE

### 6.1 Introduction

This chapter discusses the features of an enhanced service to prosecution and defence witnesses in magistrates' courts and the youth court. Four components of such a service are identified:

- Effective management of the criminal justice system
- Providing the appropriate physical environment
- Sensitive personal treatment
- Provision of information.

Under each of these headings, the adequacy of current arrangements are described and enhancements suggested. The cost implications of introducing an enhanced level of service are discussed. Specific recommendations are made in relation to each of the four aspects of witness care.

The chapter then addresses the need for a single criminal justice agency to take the lead responsibility for witness care. In this context, difficulties in delivering the commitments set out in National Standards are highlighted. Links are drawn between the unevenness of provision for witnesses and the ad hoc nature of current funding arrangements. Recommendations are made for a single lead agency in control of a stable budget to assume primary responsibility for witnesses in magistrates' courts.

### 6.2 Effective management of the criminal justice system and witness care

*The need to achieve a 'seamless service'*

The picture presented by the study fell far short of the 'seamless service for witnesses' called for by the Efficiency Scrutiny<sup>45</sup> and confirmed the Scrutiny's observation that:

*'Witnesses' interests are being passed along a hidden chain with which they appear to have pretty random contact... the general picture, it has to be said, is one of insufficient coordination, consultation and communication among the agencies involved'.<sup>46</sup>*

Many witnesses in the court survey expressed frustration and dissatisfaction with the processes which they encountered. Only 46 per cent of those in the magistrates' court actually gave evidence: in the youth court the figure was 25 per cent. (These figures are probably an underestimate as were unable to interview several witnesses who attended court but left again immediately on hearing that they were not needed.) The aspect causing greatest concern to those we contacted after court was the number of wasted journeys resulting from adjournments or failures of communication. Witnesses also complained about the amount of time spent waiting on the day of trial. The average wait

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<sup>45</sup> Para. 5.18.

<sup>46</sup> Paras. 5.10, 5.17.

was 2.9 hours in the youth court and 2.75 hours in the magistrates' court; some witnesses waited all day and still did not give evidence.

Implementation of the National Standards – particularly, that witnesses will not be brought to court unless it is essential, and that waiting times will be kept to a minimum – would go a long way towards meeting witnesses' most pressing concerns. These commitments can only be fulfilled through better management of the criminal justice process.

### *The scope for improvement*

Recent procedural changes have eliminated the need for witnesses to give evidence at magistrates' court committal proceedings. 'Old style' committals have been abolished for cases in which the investigative process began after 1 April 1997.

More sweeping changes were proposed by the 1997 Home Office Review of Delay in the Criminal Justice System. This highlighted shortcomings in case management and made recommendations which, if implemented, would result in fewer problems of court attendance for witnesses.

The Review also noted the potential for significant savings through greater efficiency. Adjournments in magistrates' courts had increased by 44 per cent between 1985 and 1996 while the number of cases fell by 11 per cent. Improvements in efficiency would not only reduce the number of unnecessary attendances at court by witnesses but would also release funds which could be used for other aspects of witness care.

### *Cost issues*

Estimating the savings that improvements in efficiency will produce is notoriously difficult in any organisation and particularly so in the legal system because of its dependence on the interaction of different agencies. The Home Office Review calculated that guilty pleas could be predicted in about 65 per cent of magistrates' court cases: if three-quarters of these cases could be completed without adjournment, a 'very broad estimate' of adjournment costs saved would amount to £32 million, shared between the court, the CPS and legal aid. If its proposals achieved the saving of just one adjournment in the remaining contested cases, the Review estimated a further saving of about £11 million. The Review also recommended that cases triable on indictment only should be managed from the outset by the Crown Court rather than, as at present, spending around half their life in the magistrates' court. This too would reduce the demands on magistrates' courts and it was estimated that savings of around £70 million would accrue to the criminal justice system.

### *Ensuring that efficiency savings work to the benefit of witnesses*

Improvements for witnesses brought about by greater efficiency can only be sustained through effective monitoring. This requires performance measures which focus on service delivery. In 1994, the Inspectorate undertook its first thematic review of the quality of service in magistrates' courts because the courts had 'no commonly accepted view... as to

what constituted a high quality of service'.<sup>47</sup> The Inspectorate found shortfalls in the relevant key indicator:<sup>48</sup> there was too much concentration on counting items rather than assessing true quality and it did not give credit for local initiatives. It concluded that 'the current formula has outlived its usefulness'.<sup>49</sup> The thematic review suggested that there should be a further examination of the key indicator's elements to identify those which provide firm evidence about the experience and perception of users.<sup>50</sup>

The Efficiency Scrutiny recommended that relevant criminal justice agencies should agree some joint performance indicators on those aspects of their functions which had a direct impact on witnesses.<sup>51</sup> TIG has looked at joint performance management factors and has pilot tested methods of data collection. Key issues appeared to be witness waiting times and the number called to court who did not give evidence. TIG is scheduled to issue joint performance indicators on witness attendance in June 1997.

It is beyond question that a more efficient system would not only improve the lot of witnesses directly but would also free up resources. At present, because court budgets are so closely linked to case throughput, there is concern that greater efficiencies will not work to the benefit of service provision. Given the move away from ring-fencing budgets<sup>52</sup>, organisations will only use resources to improve services to witnesses if they are held accountable through more demanding performance measurement. Precisely constructed measures are needed to ensure that appropriate resources are allocated to witness care.

### *Recommendations*

*Performance measures to monitor the quality of services provided to witnesses should be introduced. These should reflect the commitments to witnesses contained in National Standards.*

*Some of the funds generated by efficiency savings should be used to fulfil the commitments to witnesses contained in National Standards.*

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<sup>47</sup> Assessing the Quality of Service in the Magistrates' Courts Service, A Thematic Report (1994) HM Magistrates' Courts Service Inspectorate.

<sup>48</sup> Key indicator KI 4 is the sum of 15 secondary indicators which reflect different aspects of quality of service, including waiting times.

<sup>49</sup> Para. 2.10.

<sup>50</sup> Para. 6.4.

<sup>51</sup> Para. 5.24.

<sup>52</sup> The LCD broke the link between the quality of service key indicator and grant allocation to magistrates' courts in 1994. However, court personnel pointed out that 'top-slicing' of court budgets still occurred, for instance in relation to the building programme and the recent DVLA initiative.

### 6.3 Providing the appropriate physical environment

#### *Witness waiting areas*

The provision of separate waiting areas for prosecution and defence witnesses wherever possible is recommended by the National Standards and the LCD's draft model MCC Quality Service Charter. The Charter also suggests that separate facilities be made available for smokers and non-smokers.

On arrival at court, a significant proportion of survey participants (35 per cent of prosecution witnesses and 24 per cent of defence witnesses) expressed anxiety about waiting arrangements. Although 'separate' waiting facilities were available in all five courts in the survey, in practice these involved segregation of prosecution witnesses while defence witnesses and defendants usually remained in halls and corridors. Two defence witnesses at one court complained that they were not allowed into the witness waiting room. The process of directing witnesses to a separate waiting area required the intervention of appropriate personnel. Thus, in one court without a reception desk, unmarked witness rooms were unused during the survey.

The JUSTICE study found that 71 per cent of magistrates' courts had a separate waiting room, although a further 13 per cent were able to make special provision on request for vulnerable witnesses. Creative measures were needed to overcome building constraints. The Magistrates' Courts Service Inspectorate found that where lack of space or funding or restrictions on alterations to listed buildings prevented the construction of separate waiting areas, an acceptable alternative could often be achieved through the use of temporary screening.

#### *The security of the court building*

The withdrawal of a police presence has had a significant impact on courts. The Efficiency Scrutiny published in 1995 noted that consideration was being given to providing the courts with more comprehensive guidance on security issues, including the proposed publication of a model security manual. We are not aware whether such a manual has been produced.

Security concerns reported by magistrates' courts in the JUSTICE survey related not only to waiting areas (81%) but also to the outside of the building (63%) and to the courtroom itself (18%). We found that a court's safety 'image' could easily be eroded: 'no smoking' policies at some courts meant that witnesses had to enter the building through clusters of people on the court stairs. In one incident which we observed, the parking of a private security van outside the public door of a youth court allowed young men on remand and their friends on the pavement to carry on shouted conversations during a 20 minute period in which witnesses were arriving. This was experienced by witnesses as intimidating yet the court's security staff inside the court door did nothing to intervene.<sup>53</sup>

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<sup>53</sup> JUSTICE found that 39 per cent of courts employ private security and warns that such staff may fail to intervene in incidents which do not specifically fall within their contracts.

At one fieldwork court, security cameras outside the building were supplied by the police and monitored by them from the adjacent police station. The cameras had been provided as part of a initiative funded by the city council to install CCTV in the city centre.

Cameras were also in use inside the court building. The building manager emphasised the need for the images to be monitored by security staff dedicated to this role in order to identify vandalism or witness intimidation as it happened. He concluded that the court had been under-resourced in this regard. Immediate intervention was more important than simply taping delinquent or intimidatory activity. 'Pan and tilt' cameras were a more effective deterrent than fixed equipment, although the cost was higher. He commented that, if equipping the court building again, different decisions would be made about the siting, choice and monitoring of equipment.

### *Cost issues*

The LCD told us that it generally treats the adaptation of court buildings to create new facilities such as witness waiting areas as requiring capital expenditure. Projects of up to around £300,000 fall within the LCD's 'minor works' programme; those over that amount are subject to Private Finance Initiative regulations. Current applications for 'minor works' grants exceed the money available to fund them by about 18:1. The LCD was able to identify only one recent application specifically for a witness waiting area, budgeted at £12,000; most proposals for new waiting rooms formed part of larger and therefore more expensive projects. It was suggested that applications for the creation of waiting rooms might have a better chance of success if submitted on their own. The LCD estimated that the average cost of a such a project would be in the region of £20,000 to £40,000. It confirmed that in plans for new magistrates' court buildings, separate waiting areas for prosecution and defence witnesses are being incorporated.

The figures in the JUSTICE survey suggest that around 16 per cent of magistrates' court buildings have no separate waiting areas of any kind for witnesses. A courthouse survey by the LCD in April 1997 identified a total of 492 magistrates' court buildings.<sup>54</sup> Using a figure of £30,000 per court, the estimated cost of providing waiting areas in these courts is therefore:

$$£30,000 \times 492 \times 16\% = £2,361,600.$$

Security cameras cost between £1,000 and £3,000 depending on the specification; the pan and tilt version adds a further £800 to the price. Recording equipment and a monitor cost around £2,000. Wiring, if a conduit is required, may also cost £2,000. When equipping a multiple location site, a multiplex unit (costing around £3,000 for up to ten cameras or about £9,000 for 16 or more cameras) permits fewer monitors and recorders to be used. The court building referred to above, which was new, had been equipped with interior cameras as part of the overall cost of the building project and it was therefore difficult to isolate the specific costs involved.

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<sup>54</sup> The current total may be even lower due to recent closures of some magistrates' court buildings.

## *Recommendations*

*In accordance with the National Standards, separate waiting facilities for prosecution and defence witnesses (and where possible, separate arrangements for smokers) should be provided in every magistrates' court building.*

*In conjunction with such provision, personnel should be available to ensure that witnesses are directed to the appropriate area and are notified when they are needed in court.*

*Reviews of security need to cover not only the interior of the courthouse but also its immediate environs and the problems encountered by witnesses entering and leaving the building. Such concerns should be addressed in security contracts and staff training.*

## **6.4 Sensitive personal treatment**

### *The importance of sensitivity*

The Magistrates' Courts Service Inspectorate highlighted the potential of 'sensitive personal treatment' to mitigate problems, such as long waiting times, experienced by court users.<sup>55</sup> The sensitivity referred to can be displayed by all those who interact with witnesses. It should be distinguished from the provision of 'emotional support' by specially trained personnel, the need for which was cited by relatively few interviewees in the court survey.

The importance of sensitive personal treatment was borne out by a number of witnesses in the survey for whom an otherwise bad experience had been made more bearable because of a positive interaction with court staff, prosecutors or the bench.

### *Procedures for vulnerable witnesses*

Special procedures for vulnerable witnesses were seldom invoked in study courts and arrangements tended to be arbitrary and unplanned. This confirmed problems referred to in the Home Office report 'Witnesses with learning difficulties' which found that it was 'not always clear which agency was responsible for organising appropriate preparation and support'.<sup>56</sup>

All Victim Support schemes had experience escorting victims to court and a small but increasing number operated advance notice and court-based services for witnesses. These services were considered by Victim Support, the courts and other criminal justice agencies to make a considerable contribution to the welfare of witnesses at court.<sup>57</sup> However, the process of referrals for both victims and witnesses were problematic in some areas. There was difficulty in the provision of systematic services in the youth court.

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<sup>55</sup> Assessing Quality of Service in the Magistrates' Courts Service (1994) para. 1.12.

<sup>56</sup> Andrew Sanders et al, Research Findings No. 44 (1996) Research and Statistics Directorate.

<sup>57</sup> However, magistrates' court work was not covered by the Victim Support National Office fieldwork review process due to its 'experimental' status and there was no official magistrates' court training programme.

Witnesses contacted after court were asked about what more could have been done to support them. The vast majority of comments related to practical matters such as reducing delays and adjournments and improving the provision of information. Of 156 such comments, only six (none of whom had been in touch with a support organisation) identified 'someone to talk to' as a need. This suggested that a relatively small proportion of magistrates' court witnesses had a specific need for emotional support.

Executive interviews and those conducted with court observers (court staff, lawyers, police and others) suggested that more could be done at a local level to formalise and document options such as 'stand-by' waiting arrangements and bringing witnesses into the building by a private door. In court reviews, the Inspectorate always enquired whether a court had vulnerable witness procedures but, at the time of the study, did not routinely check whether these were in writing.

Legislation provides for the use of CCTV and videotaped evidence for young witnesses in sexual or violent offence cases in the youth court. According to the LCD, about six MCCs had their own VCRs and TV link equipment. Other courts were expected to make use of local Crown Court facilities. However, Crown Court centres said that they rarely received such requests and observers in the magistrates' courts thought that these special procedures were seldom invoked. There was little use of screens in either the magistrates' court or youth court, although all courts reportedly had screens available. Arrangements for the use of such facilities, for instance pre-trial familiarisation visits to try out TV link equipment, should be included in written procedures for vulnerable witnesses. These materials should also cover the content of familiarisation visits. This would help standardise the information conveyed when visits are conducted by different individuals or organisations.

The LCD had asked magistrates' courts to consider appointing a member of staff as child witness officer, a position with various liaison and information-giving responsibilities<sup>58</sup>, but was unaware as to whether any court had actually adopted this proposal.

### *Training*

Although one of the key principles underlying the National Standards is that 'all witnesses will be dealt with sensitively'<sup>59</sup>, there is currently no training programme on implementation of the National Standards. Executive interviewees saw the need for a national strategy on witness care training for all those working in the criminal justice system, including magistrates and stipendiaries. The Pigot Report<sup>60</sup> recommended that magistrates should receive clear guidance about the use of measures to prevent the intimidation of witnesses and that this should be addressed in their training.

Witness care training, including special provisions for vulnerable witnesses, could be delivered jointly to magistrates, court staff and others. This would provide an opportunity

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<sup>58</sup> MCG News, Autumn/ Winter 1996, Issue 14, Magistrates' Court Group.

<sup>59</sup> Para. 1.1.

<sup>60</sup> Report of the Advisory Committee on Video Evidence (1989) Home Office, para. 6.2.

for individual courts to make use of feedback from court users and to cultivate a sense of collective 'ownership' of the issue.

#### *Cost issues*

The costs of a court-based witness service are discussed below. If Victim Support is not itself the provider of such a service, it may incur costs in accepting referrals for the support of vulnerable witnesses who are not victims.

With the possible exception of defence lawyers, all professional personnel who come into contact with witnesses have established training programmes. A module dealing specifically with sensitive treatment of witnesses could be introduced into these programmes for little additional cost. Joint training sessions would be both appropriate and cost effective.

Ring-fencing of money for magistrates' court staff training will cease from 1998/99. Thereafter, money for training will be distributed by way of the grant allocation formula and it will be a matter for local decision how it is used.<sup>61</sup>

#### *Recommendations*

*'Sensitive personal treatment' should be seen as an intrinsic element of all interactions with witnesses. Training on witness care and the implementation of the National Standards should be provided to all relevant personnel in the criminal justice system, including magistrates. Inter-disciplinary training should be considered wherever possible.*

*At each court, procedures and facilities for vulnerable witnesses should be formalised in writing. This should cover familiarisation visits, access to the building, waiting arrangements (including waiting on stand-by) and procedures in court, including the use of screens.*

*National guidance is needed to promote more consistent use of videotaped evidence and CCTV links for young witnesses in the youth court.*

*Magistrates' courts should be further encouraged to designate a member of staff as child witness officer.*

*Procedures for referral of victim and vulnerable witnesses to appropriate support organisations need ongoing review to ensure that victims and vulnerable witnesses are targeted by criminal justice agencies and do not 'fall through the net'.*

## **6.5 The provision of information**

### *The current position*

We looked at the delivery of written information to witnesses before court and the availability of personnel to respond to queries before, during and after court. The study

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<sup>61</sup> MCG News, Autumn/ Winter 1996, Issue 14, Magistrates' Courts Group, LCD.

found significant gaps and inconsistencies in provision but identified a common need for information across a wide range of court users.

All witnesses in the survey should have received the Home Office leaflet 'Witness in Court' with their witness warning but only 71 per cent of prosecution witnesses and four per cent of defence witnesses recalled doing so. The Magistrates' Court Service Inspectorate advised us that most courts had developed local leaflets and all the survey courts had done so. However, only 63 per cent of prosecution witnesses recalled receiving directions to the court, compared with 18 per cent of defence witnesses.<sup>62</sup>

There were no orientation materials for young witnesses in the magistrates' court and youth court. Their needs are not covered by the NSPCC/ChildLine Child Witness Pack although the NSPCC plans to develop such materials in 1997.

A small number of courts had developed electronic bulletin boards and orientation videos<sup>63</sup> aimed variously at defendants and witnesses. Their impact and effectiveness had not been evaluated at the time of our study. Efforts to improve information-giving need not require significant outlay: one of the survey courts had large displays on the walls of the public area with a diagram of courtroom layout and an explanation of oath-taking procedures.

According to the JUSTICE survey, familiarisation visits were available at 75 per cent of magistrates' courts and that 60 per cent of courts had an information point. Familiarisation visits were conducted by witness support volunteers (20%), ushers (18%), other court staff (18%), the CPS (8%) or a combination of different personnel. Information points were staffed using ushers (63%), security staff (25%), specialist reception staff (14%) or by witness support volunteers (3%).

Interviewees in our executive and observer groups acknowledged the difficulties confronting prosecutors, defence lawyers and court ushers in discharging responsibilities to keep witnesses informed at court. Prosecutors and defence lawyers had no support staff to liaise with witnesses when they themselves were in court. Ushers too were under increasing pressure to be in court, with fewer available to patrol foyers and waiting areas in order to deal with witness queries. The number of ushers per courtroom was a matter for local discretion. Some ushers covered two courtrooms and in one fieldwork court which had list callers as well as ushers, it was expected that these functions would 'double up' in future.

### *The demand for information*

Problems experienced by witnesses in obtaining case-specific information were referred to earlier in this chapter. The court survey also indicated a desire for basic procedural information among prosecution and defence witnesses. Forty-two per cent of witnesses for the defence and 41 per cent of prosecution witnesses were worried about not

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<sup>62</sup> It is unclear whether defence solicitors might make better use of materials targeted specifically at their clients: a leaflet addressed specifically to defence witnesses has been developed by Isleworth Crown Court but its impact has not yet been evaluated.

<sup>63</sup> The LCD's draft model MCC Quality of Service Charter includes a reference to 'a subtitled video about the court shown in the waiting area'.

understanding what was happening in court. This casts doubt on the claim that defence and prosecution witnesses have different information requirements and suggests that the needs of defence witnesses are not well met by defence lawyers or by anyone else.

Statistics provided by NACRO revealed an appetite for information about court procedures expressed by defendants. The most frequent request to its help desks (38 per cent of all inquiries) was for information about basic court procedures from a client base composed of 88 per cent defendants. We noted that at Bexley magistrates' court, in a separate initiative independent volunteers assisted defendants at early administrative hearings to complete legal aid application forms and to select a solicitor from a list of local firms.<sup>64</sup>

Some executive interviewees saw a need for services to witnesses that were not exclusive to criminal proceedings, particularly in anticipation of Part IV of the Family Law Act later in 1997, which extends the availability of court orders in relation to domestic violence. The Salford Witness Service specifically targeted witnesses in the county court and family proceedings court; at least one Victim Support court-based scheme responded to requests for assistance in the county court.

### *Meeting the demand*

The findings of this study paint a bleak picture about the state of current provision of information to witnesses. The National Standards allocate key responsibilities for communicating with witnesses to criminal justice agencies and to the defence solicitor:

- facilitating pre-trial familiarisation visits
- providing a single point of contact for responding to witness queries, including court results
- directing witnesses on arrival at the court's reception point and providing information on case progress<sup>65</sup>
- providing basic information about court procedures
- liaison with and referral to criminal justice system personnel and other organisations.<sup>66</sup>

In practice, there is often no-one available to execute these responsibilities. In order to simplify the interface of witnesses with the system and to ensure a more efficient and consistent service, we propose that these core tasks are brought together under one umbrella for delivery by a generic witness service, that is a service that is equally available to defence and prosecution witnesses, covering the magistrates' court and youth

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<sup>64</sup> Early administrative hearings at Bexley reportedly reduced from 55 per cent to less than ten per cent the proportion of cases failing to make progress at first appearance because the defendant had not obtained legal advice: Review of Delay in the Criminal Justice System (1997) Home Office p. 28.

<sup>65</sup> The Efficiency Scrutiny recommended that each magistrates' court should have an information desk provided with up-to-date information on case progress which would be available to all witnesses (paras. 5.36-37). The LCD's draft model Quality of Service Charter also refers to the provision of 'a reception desk for enquiries'.

<sup>66</sup> The service could also deal with or pass on concerns about expenses: the researchers encountered a few witnesses, including two who had walked some distance to the court, who were unaware that they were eligible for expenses.

court. In fact, consideration should be given to making this service available to all court users, including defendants and those involved in non-criminal proceedings.<sup>67</sup>

The service we propose differs from the Crown Court Witness Service in that it could be delivered by the court itself or by an external organisation under contract. Voluntary sector organisations have two possible roles. As members of the court's team, they would be available or on call to provide services to their traditional client groups. Alternatively, as contracted suppliers of the service, their remit would require an even-handed approach to both prosecution and defence witnesses, preferably with an organisational identity which would not deter potential clients or result in conflict for volunteers. Even if delivery is delegated to a voluntary body, accountability for quality of service provision would remain with the court.

The service would be even-handed, as required by the Efficiency Scrutiny.<sup>68</sup> It would be court-based and have access to up-to-date listing information and case results in order to respond to enquiries.

This integrated service should have a high profile in the criminal justice system. It should provide feedback to criminal justice system agencies to help in identifying problems and responding to witnesses' complaints.<sup>69</sup>

To respond to witnesses needs for information, we propose that designated personnel should be available to respond to queries in all magistrates' courts. The existence of this service would be notified to prosecution witnesses by the police and by defence solicitors. A telephone contact point would be staffed, depending on demand, during court hours or on a part-time basis, backed up with an answering machine to take messages. The service would arrange familiarisation visits on request. During court sittings, the service would staff the court reception point, direct witnesses to appropriate facilities and provide up-dated case information.

The service would carry out the court's commitments contained in the Victim's Charter; special provision would be available for the support of vulnerable witnesses. The National Standards require courts to nominate someone to liaise with the police concerning police arrangements for witnesses at risk of being intimidated at court. Arrangements for witnesses subject to intimidation or vulnerable for other reasons require police intervention and referral at an earlier stage than witness warning. The service would liaise closely with criminal justice system and other organisations. This might include, for example, referral to Victim Support of a witness who wished to be accompanied in the courtroom, or liaison with a police officer, prosecutor or defence lawyer about a witness' request for information.

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<sup>67</sup> The need to improve services to court users, including the accused, has been acknowledged by the Prime Minister's Seminar on Criminal Justice and the Citizen and the LCD's draft model MCC Quality of Service Charter.

<sup>68</sup> Para. 5.36.

<sup>69</sup> At Redbridge Magistrates' Court, a designated 'front of house officer' reports to the JCE and the External Relations Sub-Committee on services and procedures for court users.

### *Cost issues*

Responsibilities for witnesses are not exclusive to the court but are shared among criminal justice system organisations, as reflected in the financial contributions of local police and probation services to various witness care initiatives and payment by the CPS for vulnerable witnesses' familiarisation visits. The establishment of the envisaged service may result in some savings to the police, courts and the CPS. TIG would provide an appropriate forum in which inter-agency questions of relative costs and savings could be discussed.

Personnel costs depend crucially on the level of staffing required and whether it is supplied by criminal justice system personnel or an external organisation using a coordinator and volunteers. Whoever provides the service, flexibility is important because of fluctuations in demand and the difficulty in forecasting numbers of witnesses attending court. Some economies of scale may be achievable where services are coordinated across a number of courts.

If staffed by the court, management costs may be absorbed within existing expenditure for running the court and during slack times it may be possible to assign personnel to other administrative tasks.<sup>70</sup> If an external organisation provides the service, the salary of the coordinator/manager would be a separate cost but the use of volunteers would result in overall personnel savings.

For individual courts, the staffing level will be driven by the number of days each year during which the court sits and the volume of enquiries received. Using the figure from the April 1997 LCD survey of 492 magistrates' courts buildings in England and Wales, then the average number of sitting hours per building in 1996 was 2,380. Defining a sitting-day as five hours, this equated to 477 sitting-days per court building.<sup>71</sup> Of course, much of this time was spent hearing summary motoring offences but courts operate mixed lists and the witness service should be available on each occasion that the court sits. Taking account of holidays, sickness and the need for breaks during the day, we have used a figure of 1½ staff per court building as an average for cost estimates.

As a starting point, we assume that court staff are used to provide the service. If salary costs for an appropriate member of court staff (inclusive of National Insurance and pensions) are taken as £15,000 a year<sup>72</sup>, the annual personnel costs for an average court are:

$$£15,000 \times 1.5 = £22,500.$$

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<sup>70</sup> This option is more feasible where the court's administration is located in the same building as the courtrooms.

<sup>71</sup> Of course, this figure is only an average. The number of courtrooms and the volume of work vary widely between courts and many will sit for a greater number of days while others will sit fewer days. For costing purposes, however, it is permissible to use the average figure.

<sup>72</sup> In its report to the Home Office on Costing of Organisation Options for the Magistrates' Court Service (September 1990) Coopers and Lybrand pointed out that the pay and grading structure for court staff is neither national nor unified and most MCCs use it according to their particular needs or inclinations.

Multiplying this figure by the 492 magistrates' court buildings in which the service would be provided leads to a total cost of around £11 million. Of course, this calculation assumes that we are starting from a zero base which is clearly not the case. The real cost is likely to be significantly less when account is taken of existing deployment of staff to provide relevant services.

Other costs associated with provision of the service include administration and training. By way of illustration, we used figures from a 1996 proposal for a Victim Support county witness service to be provided to six magistrates' courts, with offices for two coordinators. Printing/stationery included the cost of leaflets. Postage covered the cost of sending information to witnesses (although often this can be incorporated with mailing the witness warning). Telephone costs covered a dedicated line and two answering machines. Equipment included computer and software, an answering machine and two sets of office furniture. Extrapolating from the county scheme's figures, an estimate of £2,000 a year would be needed for administrative costs in an average court. The figure for the first year may be higher due to start-up costs.

The county proposal puts expenditure on annual training for staff and volunteers at £250 per court and this has been used to give an estimate of training costs for court staff.

The broad budgetary estimate for providing a generic witness service using court staff is therefore as follows:

**Cost estimates for providing a generic witness service starting from a zero base**

|                       | <b>Cost per court</b> | <b>No. of courts</b> | <b>Total cost</b> |
|-----------------------|-----------------------|----------------------|-------------------|
| <b>Salaries</b>       | £22,500.00            | 492                  | £11,070,000.00    |
| <b>Administration</b> | £2,000.00             | 492                  | £984,000.00       |
| <b>Training</b>       | £250.00               | 492                  | £123,000.00       |
| <b>TOTAL</b>          |                       |                      | £12,177,000.00    |

**Table 6.1**

As discussed above, the zero base assumption does not take account of existing provision and the number of court buildings may be fewer than 492 due to closures since April 1997. The actual cost is therefore likely to be significantly less. Because of the move away from ring-fencing in MCC budgets, it was not possible to calculate the amount in court budgets accounted for by current quality of service initiatives. This contributes to the difficulty in calculating how much of the service represents a reorganisation of existing provision and how much involves completely new work.

Most of the National Standards set out a more systematic approach to existing work which is therefore regarded as 'resource neutral'. The JUSTICE survey, based on a 71.5 per cent response rate from petty sessional divisions, found that witness information points and familiarisation visits were already available at a majority of courts. However, some of the Standards, such as standby arrangements for witness waiting, are acknowledged to amount to new work although the costs involved have not yet been calculated. The analysis of Local Service Level Agreements, due to be carried out later in 1997, will highlight the extent in gaps in provision between current practice and the

National Standards and indicate where the response to specific Standards is constrained on account of cost.

Some of the costs could be met through savings elsewhere. If the potential improvements in efficiency detailed in the Home Office Review were actually realised, the benefits for witnesses would be twofold: greater certainty that hearings would proceed as scheduled, resulting in less demand from witnesses for information and support; and release of resources that could be re-deployed to meet commitments to witnesses in National Standards.<sup>73</sup> Taking these factors into account, it is conceivable that even using court personnel as service providers, the costs of the enhanced service could be completely met by relatively small improvements in efficiency.

An alternative approach with lower personnel costs than the use of court staff is the contracting out of service delivery to an external organisation using volunteers. Precise calculations are, however, also difficult. Victim Support estimated that its mainstream service was under-funded by £3 million, and has therefore attempted to cost the provision of support at all magistrates' courts as a separate exercise.<sup>74</sup> Acknowledging the difficulty of the arithmetic involved, two methods were presented for estimating costs. Method A was based on a calculation of 2.5 staff per county, with different arrangements for London. This method arrived at a figure of £4,311,750 per annum for a national service. Method B, based on volunteer numbers, used as a multiplier the number of courtrooms. Using a 30 per cent courtroom occupancy rate,<sup>75</sup> Victim Support estimated an annual cost of £3,769,500; for a 50 per cent occupancy rate, the annual cost was estimated at £6,173,000. Start-up costs, which were calculated separately, were estimated as £234,000.

### *Recommendations*

*As advised by the Magistrates' Courts Service Inspectorate, courts should conduct regular surveys of witnesses to ensure effective distribution of written pre-trial information by the police. Defence witnesses should also be surveyed and continued efforts should be made to encourage defence solicitors to use the materials available.*

*Courts have developed a range of media aimed at improving the giving of information to court users. In order to avoid duplicating expenditure on development, the LCD should provide a central information point about the costs and relative benefits of such initiatives.*

*In line with the 'one stop shop' principle,<sup>76</sup> a generic witness service should be provided in all magistrates' courts. This would provide a focal point for witnesses' queries and requests for help and thus simplify their interface with the system. The service would execute responsibilities to prosecution and defence witnesses before, during and after court, as laid out in the National Standards.*

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<sup>73</sup> With the caveat that more precise and meaningful performance measures are essential in ensuring that appropriate resources are allocated to witness care.

<sup>74</sup> Victim Support in the Magistrates' Courts - Review of Services and Future Development Issues (1996).

<sup>75</sup> The JUSTICE survey concluded that the correlation between the number of courtrooms and the number of cases heard is not high.

<sup>76</sup> Under the Victim's Charter, a pilot test is being conducted giving victims a single point of contact with the police to help them stay in touch with case progress.

*Although the Standards address the needs of prosecution and defence witnesses only, there is a case for extending service provision to other court users many of whom have needs that overlap with those of witnesses. The feasibility of providing the described services to all court users should be investigated.*

## **6.6 ‘Ownership’ of witness care**

### *Taking a lead*

In recent years, voluntary organisations have expanded beyond their specific client groups to become providers of more general witness services. In many respects, this has been a welcome development. The voluntary sector, responding to grass roots demand, has filled a gap created by uncertainty within the criminal justice system as to how and by whom witness needs should be met and resourced.<sup>77</sup> However, the Efficiency Scrutiny warned that arrangements in which responsibility for “looking after” witnesses was placed “squarely” on the voluntary sector:

*‘effectively institutionalises the courts’ historic stance that they have no interest in witnesses’.*<sup>78</sup>

No single government department has lead responsibility for policy on witnesses. The study suggested that, despite the issuance of National Standards, witness care was likely to be marginalised unless greater clarity of responsibility could be achieved among government departments on policy and funding issues. Executive interviewees criticised the lack of central coordination, direction and monitoring. Local initiatives had developed in a fragmented way, with no national mechanism for assessing priorities or strategy for allocating resources. Funders included the Home Office Probation Unit (NACRO help desks), the Home Office Safer Cities grants, the Department of the Environment Single Regeneration Budget, the National Lottery, contributions from MCCs, police, probation, social services, local authorities as well as local trusts and fund-raising.

The Home Office deals with policy relating to victims and is also the funder of Victim Support and of the CCWS. The relationship of the CCWS to Victim Support (currently part of a Structural Review) and to the Home Office is beyond the scope of this study. However, the question of departmental responsibility for witness services in magistrates’ courts raises similar issues. The 1994 Value for Money Audit of Victim Support, conducted for the Home Office by external consultants, recommended that the Home Office transfer funding responsibility for the CCWS to the LCD. The National Council of Victim Support and the LCD did not agree. At the time, the LCD thought it important that the court should not be too closely involved with either prosecution or defence witnesses. It was felt that the assumption of funding responsibility by the LCD might link the courts more closely with prosecution witnesses than would be desirable, and might be perceived

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<sup>77</sup> For example, JUSTICE found that 96 per cent of Crown Court information desks were staffed by Witness Service volunteers. This is an accepted part of the volunteer’s role: the 1992 Crown Court Witness Service Volunteer Training Programme contains a section entitled ‘Giving instructions at the information desk’.

<sup>78</sup> Para. 5.23.

as affecting the court's neutrality. The Home Office shared this view, although it thought that the position might be reconsidered at a later date.

The National Standards' emphasis on even-handed services for prosecution and defence witnesses has eliminated some of the concerns raised by the Value for Money audit. The ability of the service to respond to the needs of witnesses will depend crucially on the quality of its relationship with court personnel. That relationship is most likely to flourish under LCD direction. Equally, the LCD is well-placed to monitor the accessibility of the service to all witnesses. The time is therefore right for the LCD to assume responsibility for coordinating witness policy.

### *Current funding arrangements*

It was not possible to identify how much of the magistrates' courts current budget was accounted for by witness care because of the move away from ring-fencing. It was hard to form a coherent picture of existing witness schemes provided by external organisations because of their diverse funding arrangements. The amount of money allocated often depended more on the effectiveness of funding efforts than on the size of workload. All were operating on short-term grants, many for one year only or, at the most, three to five years. Some grants were made up of contributions from local criminal justice system organisations or charitable sources. The possibility of commercial sponsorship was being explored.

Victim Support schemes undertaking court work had no typical budgetary profile. Some provided a service with little or no additional funding; others received an annual sum ranging between £4,000 and £20,000. However, even funded schemes commented that their costs were often not covered in full and that paid staff worked hours in excess of those in the budget. This made it difficult to compare costs even between courts of a roughly similar size and throughput. Some economies of scale were achieved where a single coordinator served a group of courts. In a few cases, the magistrates' court coordinator worked under the direction of the Crown Court Witness Service coordinator. New schemes required a significant injection of effort in their initial stages and this sometimes meant that start-up costs were under-estimated. For Victim Support, the rate paid for volunteer expenses and coordinators' salaries were described by most schemes as being at the bottom margin. Services at some locations received a hidden subsidy from courts in the form of accommodation and access to facilities but this was not always the case.

Two schemes targeting witness intimidation (both of which incorporated court services though to a somewhat different extent) received grants of £147,000 and £300,000 over a five year period from the Single Regeneration Budget. However, we were advised that court-based witness service schemes in general were unlikely to qualify for SRB funds in the future. Thirteen NACRO help desks (which, despite their broad remit, had little contact with victims and witnesses) cost approximately £22,000 each per year over a three year period. Home Office funding of these pilots was drawing to a close and NACRO was looking to MCCs and local probation services as possible alternative sources. This raised the potential for competition for such local funding between NACRO and Victim Support.

Most executive interviewees concluded that the tenuous nature of local funding arrangements was an unsatisfactory basis for the development of more consistent witness care in the future.

## *Recommendations*

*There is a need for clear 'ownership' of witness care at a national level, including consideration of budgetary issues. Achieving greater clarity about ownership also requires a review of the contribution of external organisations. The LCD is well-placed to perform these tasks and should assume the leading role in matters relating to witness care.*

*The LCD should lead discussions between criminal justice system agencies on joint funding of the generic witness service.*

## **6.7 Conclusion**

This study took place at a time of increasing demand for improvements in witness care. The Statement of National Standards of Witness Care in the Criminal Justice System and the revised Victim's Charter were issued during the year preceding the study. A model MCC Quality Service Charter from the LCD and revised policy statement from the CPS are due shortly.

The current provision for witness services falls a long way short of the policy commitments. In the absence of estimates of implementation costs, practice has often failed to reflect policy due to financial constraints. The lack of ownership of witness care at a national level has resulted in poor coordination, direction and monitoring.

A range of options are put forward in this report. It has been possible only to speculate about the costs of a generic witness service as a vehicle for delivering existing policy commitments. The analysis of Local Service Level Agreements, due to be carried out later in 1997, is expected to highlight the extent in gaps in provision between current practice and the National Standards and indicate where failure to meet specific Standards is attributable to lack of funding. Pilot projects conducted in one or more Local Service Level Agreement areas would allow a better assessment to be made of the validity of the generic witness service model and of the costs and savings involved.